INTRODUCED: November 9, 2020

AN ORDINANCE No. 2020-238

To adopt a new Code of the City of Richmond, Virginia; to repeal the Code of the City of Richmond, Virginia, 2015; to prescribe the effect of such repeal; and to provide for the manner of amending the new City Code.

Patron – Vice President Hilbert

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 14 2020 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Contents and Designation of Code.** The ordinances of the City of Richmond, Virginia, of a general and permanent nature, as revised and codified in Chapters 1 through 30 of the document entitled "Code of the City of Richmond, Virginia, 2020," a copy of which is maintained in both paper and electronic format by the Office of the City Clerk, are hereby adopted and constitute the Code of the City of Richmond, Virginia, 2020, as of the first moment of December 15, 2020.

§ 2. **Repeal of Prior Code.** All ordinances comprising The Code of the City of Richmond, Virginia, 2015, including all amendments thereof and additions thereto, in force and

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: DEC 14 2020 REJECTED: _____ STRICKEN: _____

effect on December 14, 2020, are hereby repealed as of the last moment of December 14, 2020, subject to the limitations set forth in section 3 of this ordinance.

§ 3. **Limitations on Repeal of Prior Code.** The repeal effected by section 2 of this ordinance shall not:

(a) Be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance; or

(b) Affect or impair:

(1) Any act done, forfeiture effective, offense committed, penalty incurred, or right established or accrued before the first moment of December 15, 2020; or

(2) Any prosecution, suit, or other proceeding pending on or any judgment or decree rendered on or before December 15, 2020.

References in contracts or other documents to provisions of The Code of the City of Richmond, Virginia, 2015, shall be construed to refer to like provisions of the Code of the City of Richmond, Virginia, 2020.

§ 4. **Additions or Amendments to New Code.** Additions or amendments to the Code of the City of Richmond, Virginia, 2020, when adopted in such form as to indicate the intention of the City to make the same a part of the Code of the City of Richmond, Virginia, 2020, shall be deemed to be incorporated into the Code of the City of Richmond, Virginia, 2020, so that reference to the Code includes all such additions and amendments.

§ 5. **Ordinances Adopted after September 28, 2020.** Ordinances adopted after September 28, 2020, that amend or refer to ordinances that have been codified in The Code of

the City of Richmond, Virginia, 2015, shall be construed as if they amend or refer to like provisions of the Code of the City of Richmond, Virginia, 2020.

§ 6. **Effective Date of Ordinance.** This ordinance shall be in force and effect upon adoption.

A TRUE COPY:
TESTE:

City Clerk

Richmond City Council

The Voice of the People — *Richmond, Virginia*

Office of the Council Chief of Staff

Ordinance/Resolution Request

TO **Haskell C. Brown, III Interim City Attorney**
Office of the City Attorney

THROUGH Lawrence R. Anderson
Council Chief of Staff

FROM Tabrica C. Rentz
Acting Deputy City Attorney for Governance and Finance
Office of the City Attorney

COPY Christ A. Hilbert, Vice President of the Council
Meghan K. Brown, Deputy Council Chief of Staff
Lisa Townes, 3rd District Liaison

DATE October 30, 2020

PAGE/s 1 of 2

TITLE **Recodification of City Code**

This is a request for the drafting of an **Ordinance** ☒ **Resolution** ☐

REQUESTING COUNCILMEMBER/PATRON

Vice President Hilbert

SUGGESTED STANDING COMMITTEE

Governmental Operations and Planning Commission

ORDINANCE/RESOLUTION SUMMARY

To adopt a new Code of the City of Richmond, Virginia; to repeal the Code of the City of Richmond, Virginia, 2015; to prescribe the effect of such repeal; and to provide for the manner of amending the new City Code.

BACKGROUND

The City Code was last recodified by Ord. No. 2015-224-218, adopted November 9, 2015. Effective April 17, 2020, the City contracted with Municipal Code Corporation for recodification services. The recodification project has resulted in a 1,429-page document, identified as the Code of the City of Richmond, Virginia, 2020, to replace the 2015 City Code. This document is provided in Portable Document Format as an attachment to this Ordinance/Resolution Request. The proposed ordinance is necessary to adopt the new 2020 City Code in accordance with section 4.13 of the City Charter and section 15.2-1433 of the Code of Virginia.

The recodification resulted in a number of changes. The Code was reorganized to better utilize reserved section numbers. In some cases, section numbers were renumbered. Editorial conventions and citation formats for state laws were changed to make such conventions and formats uniform throughout the City Code. In addition, changes were made to bring the City Code into compliance with applicable laws, and terminology was updated to reflect contemporary names of organizations. A brief summary of those

changes that the Office of the City Attorney believes to have some substantive effect is attached to this Ordinance/Resolution Request.

The 2020 City Code is organized in generally the same way as earlier City Codes. However, instead of a separate fee appendix, the 2020 City Code has incorporated all fees established by the City Code that were previously set forth in Appendix A to the 2015 City Code into the corresponding provisions of the City Code. This change is expected to facilitate easier and swifter navigation of the new City Code by users searching for fees. The City Code, when published, will include a table of contents, copy of the City Charter, each chapter of the City Code, an index, and a set of comparative tables to facilitate historical research. For purposes of the recodification of the substantive portions of the City Code and to facilitate a timely review of the City Code by the Council, the Municipal Code Corporation has provided a copy of the City Charter and chapters of the City Code, and the table of contents and comparative tables will be incorporated with the final printing of the City Code. The print version will be divided into two volumes, as a single volume has proven to be unwieldy. An internet version of the City Code will be available on Municipal Code Corporation's website, to which the City's website will link. After adoption of the recodified City Code, the regular supplementation will reflect ordinances amending provisions of the 2015 City Code adopted since September 28, 2020.

FISCAL IMPACT STATEMENT

Fiscal Impact	Yes ☐ No ☒
Budget Amendment Required	Yes ☐ No ☒
Estimated Cost or Revenue Impact	$ N/A

Fiscal Summary: The Office of the City Attorney has budgeted for costs relating to the recodification. No additional costs are anticipated as a result of the adoption of the proposed ordinance.

Attachment/s Yes ☒ No ☐

- Recodified City Code (PDF only)
- Summary of Changes with Substantive Effect
- Planning Commission Resolution

Richmond City Council Ordinance/Resolution Request Form/updated 10.5.2012 /srs

SUBSTANTIVE CHANGES SUMMARY

1. **Sec. 2-1127 ("Composition; alternate member; election of officers; terms of office; duties; minutes").** The sentence that read "The Circuit Court of the City of Richmond shall appoint the members of the Board in each tax year immediately following the year an annual assessment is conducted" in subsection (a) is deleted because such language does not apply to permanent boards of equalization, which board the City has established pursuant to Va. Code § 58.1-3373.

2. **Sec. 4-1 ("Definitions").** The definition for "dangerous dog" in this section is rewritten to conform to the definition of that term in Va. Code § 3.2-6540.

3. **Sec. 4-96 ("Cruelty to animals").** Subsection (e) of this section is revised to include the phrase "in a reasonable and customary manner" to conform this subsection to Va. Code § 3.2-6570(C).

4. **Ch. 6, art. IV ("Tattooing and Tattoo Parlors").** This article is revised, in accordance with Va. Code § 15.2-912, by adding a new section numbered 6-91 ("Exemption") to include an exception to the provisions in that article with regard to medical doctors, veterinarians, registered nurses or any other medical services personnel licensed pursuant to state law in performance of their professional duties.

5. **Sec. 6-177 ("Purpose").** This section is revised to correct the reference to City Charter § 4.02 to § 2.01.

6. **Sec. 6-352 ("Employees with contagious or infectious disease").** This section is revised to conform to Va. Code § 3.2-5113 to prohibit any employer from knowingly permitting or requiring any person to work in "any place where food is manufactured, produced, prepared, processed, packed, or exposed, who is afflicted with any contagious or infectious disease, or with any skin disease."

7. **Sec. 6-355 ("Sterilization of bottles and containers").** This section is revised to conform to Va. Code § 3.2-5118 by adding therein a new subsection (3) providing that other equally efficient methods of sterilization as are approved in accordance with Code of Virginia, § 3.2-5118 are permitted.

8. **Sec. 11-156 ("Additional enforcement procedures").** This section is revised by adding to subsection (a)(2) the sentence "If the owner notifies the locality in writing within the 30-day period that additional time to complete the corrective action is needed, the locality shall allow such owner an extension for an additional 30-day period to take such corrective action." This change is made in accordance with Va. Code § 15.2-907(B)(1)(b). In addition, this section is revised to conform to Va. Code § 15.2-907(B)(1)(c), by incorporating the notice requirements set forth therein. Subsection (g) of this section is revised to conform to Va. Code § 15.2-907(D), which establishes that certain rights of an owner of property at law shall not be construed to be abridged, diminished, limited or waived.

9. **Sec. 14-54 ("Severability").** This section is deleted as its subject matter is addressed fully by City Code § 1-7.

10. **Sec. 14-148 ("Definitions").** This section is revised to conform the definition of "certified plan reviewer" to the definition of that term set forth in Va. Code § 62.1-44.15:51.

11. **Sec. 17-20 ("Definitions").** This section is revised to conform the definition of "disability" to the definition of "disability" set forth in Va. Code § 36-96.1:1. In addition, this section is revised to include the definition of the term "source of funds," as that term is defined in Va. Code § 36-96.1:1.

12. **Sec. 17-21 ("Unlawful discriminatory housing practices").** This section is revised to conform to Va. Code § 36-96.3 by adding the words "source of funds" after the phrase "familial status" in subsections (a)(5) and (a)(7) to prohibit discriminatory housing practices on the basis of "source of funds."

13. **Sec. 17-24 ("Certain restrictive covenants void; instruments containing such covenants").** This section is revised to conform to Va. Code § 36-96.6 by changing "physically disabled" to "individuals with physical disabilities" and replacing "mentally, retarded, or developmentally disabled person" with "mental illness, intellectual disability, or developmental disability."

14. **Sec. 17-26 ("Exemptions").** This section is revised to conform to Va. Code § 36-96.2 by adding therein new subsections (i) to provide that nothing in Article II ("Fair Housing") of Chapter 17 shall prohibit an owner or an owner's managing agent from denying or limiting the rental occupancy of a rental dwelling unit because of person's source of funds. In addition, subsection (j) was added to provide that it shall not be unlawful under Article II for an owner or an owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on a person's source of funds if that source of funds is not approved within 15 days of a submission of a request for tenancy approval.

15. **Sec. 19-206 ("Prostitution and solicitation of prostitution").** With the exception of language making the solicitation of prostitution from a minor a felony, because the City does not have the authority to enforce any violation of law as a felony, this section is revised to conform to Va. Code § 18.2-346.

16. **Sec. 19-290 ("Inhaling drugs or other noxious chemical substances or causing others to do so").** This section is revised to conform to Va. Code § 18.2-264, which lists the types of "noxious chemical substances" subject to that statute.

17. **Sec. 19-332 ("Carrying concealed weapons").** This section is revised to conform subsection (b) of that section to Va. Code § 18.2-308(A), which delineates the types of weapons subject to that statute and specifies the punishment and affirmative defense for any violation of its provisions.

18. **Sec. 19-466 ("Definitions").** This section is revised to conform the definition of "pari-mutuel wagering" to the definition of that term set forth in Va. Code § 59.1-365.

19. **Sec. 21-3 ("Exemptions").** This section is revised to conform subsection (a)(3)(b) of that section to Va. Code § 2.2-4344(A)(1)(b) by replacing the text of subsection (a)(3)(b) with the sentence "Employment services organizations that offer transitional or supported employment services serving individuals with disabilities," which does not make a distinction between nonprofit and for-profit organizations that offer transitional or supported employment service. Subsection (A)(6)(a) is revised to update the reference to "Comprehensive Services Act for At-Risk Youth and Families" to "Children's Services Act."

20. **Sec. 21-4 ("Definitions").** This section is revised to include the definition of the term "employment services organization" set forth in Va. Code § 2.2-4301.

21. **Sec. 21-73 ("Job order contracting").** Subsection (b) of this section is revised by changing "$5,000,000.00" to "$6,000,000.00" in accordance with Va. Code § 2.2-4303.2. In addition, subsection (f) is revised by adding to the end of that section the text "However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to $250,000, subject to the maximum annual threshold amount established in this section," in accordance with Va. Code § 2.2-4303.2.

22. **Sec. 25-259 ("Location of sewers, gas and water distribution facilities, electric power and telephone service").** This section is revised to include cable television.

23. **Sec. 26-1 ("Definitions").** This section is revised to conform the definition of the term "machinery and tools tax" to Va. Code § 58.1-3507(A).

24. **Sec. 26-296 ("Penalty imposed when taxes become delinquent").** This section is deleted as its subject matter is covered by City Code §§ 26-361, 26-362, 26-891, 26-900, and 26-901.

25. **Sec. 26-297 ("Liability of persons responsible and successors").** This section is deleted as its subject matter is covered by Va. Code § 58.1-3906.

26. **Sec. 26-671 ("Exemptions; limits on application").** This section is revised to conform to applicable provisions of Va. Code § 58.1-3840 by conforming certain exemptions from meal taxes set forth in that section pertaining to food and beverages sold or provided by various for-profit and nonprofit entities, the Commonwealth of Virginia, governmental agencies, and bind persons.

27. **Sec. 26-672 ("Gratuities and service charges").** This section is revised to conform to applicable provisions of Va. Code § 58.1-3840 by specifying in accordance with state law the circumstances within which a tax may not be imposed upon the gratuity paid by a purchaser or a mandatory gratuity or service charge added by a restaurant.

28. **Sec. 26-759 ("Deeds").** This section is revised to conform to Va. Code § 58.1-3800 by exempting from the City's recordation tax a transaction that is subject to a state recordation tax of fifty cents.

29. **Sec. 26-760 ("Deeds of trust or mortgages;" Current section number).** This section is revised to conform to Va. Code §§ 58.1-803 by adding to subsection (b) language providing that the tax on a deed of trust filed in the Clerk's Office of the Circuit Court may also be based on the entire amount of property conveyed by certain deeds of trust and by adding to subsection (c) language providing that the tax on certain deeds of trust shall be the amount by which the original obligation secured by the supplemental instrument exceeds the maximum obligation secured by the prior instrument.

30. **Sec. 26-670 ("Construction loan deeds of trust or mortgages;" New section)** This section was added to conform to Va. Code § 58.1-804 and specifically addresses the tax for the filing of construction loan deeds of trust or mortgages, which is a recordation tax imposed by the Commonwealth of Virginia.

31. **Sec. 26-761 ("Contracts relating to real or personal property, etc.").** This section is revised to conform to Va. Code § 58.1-807 by adding language addressing the tax to be imposed on the recordation of assignments of a lessor's interest, and on the recordation of leases of oil, gas, coal and other mineral rights, which are recordation taxes imposed by the Commonwealth of Virginia.

32. **Sec. 26-764 ("Exemptions from taxes levied by sections 26-759 and 26-750").** This section is revised to conform to applicable provisions of Va. Code § 58.1-811 to update the wording for exemptions from recordation taxes pertaining to incorporated churches, and to address exemptions pertaining to partnerships or limited liability companies, trustees of revocable inter vivos trusts, organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code, deeds of partition, deeds transferring property pursuant to a divorce decree or other written instruments involving or incident to a divorce or separation, certain secured loans, and entities organized pursuant to Code of Virginia, Title 56, Ch. 9.1.

33. **Sec. 26-823 ("False statements to secure license; penalty for failure to obtain license").** This section is revised to conform to Va. Code § 3.2-6587 by providing that violations of that section shall be punishable as a Class 4 misdemeanor.

34. **Sec. 26-869 ("License requirement").** Subsection (a) of this section is revised to conform to Va. Code § 58.1-3703.1(A)(1) by altering the language to match the language of the state code provision and by removing references to state code provisions that no longer appear in Va. Code § 58.1-3703.1(A)(1), but does not otherwise change this section in substance.

35. **Sec. 26-870 ("Situs of gross receipts).** This section is revised to conform subsection (c) of this section to Va. Code § 58.1-3703.1(A)(3)(c) concerning requests for advisory opinions of the Virginia Department of Taxation and court orders in cases involving double assessments.

36. **Sec. 26-871 ("Established").** This section is revised to conform to Va. Code § 58.1-3731 by adding an exemption for electric suppliers as defined in Va. Code § 58.1-400.2.

37. **Sec. 26-872 ("Definitions").** This section is revised to add a definition for "amount in dispute," as set forth in Va. Code § 58.1-3703.1(A)(5)(a); definitions for "entity," fuel sale" or "fuel sales," "gas retailer," "independent registered representative," "security broker," "security dealer," as set forth in Va. Code § 58.1-3700.1; a definition for "frivolous," as set forth in Va. Code § 58.1-3703.1(A)(5)(a); a definition of "jeopardized by delay," as set forth in Va. Code § 58.1-3703.1(A)(5)(a); conform the definition of "gross receipts" to the definition of that term provided in Va. Code § 58.1-3700.1; conform the definition of "itinerant merchant" to the definition of that term set forth in Va. Code § 58.1-3717; and conform the definitions of "professional service" and "real estate services" to the definitions for those terms, respectively, provided in Va. Code § 58.1-3700.1;

38. **Sec. 26-873 ("Exemptions").** This section is revised to add exemptions listed in Va. Code § 58.1-3703 that were not previously listed in City Code § 26-873, including, with some exceptions, exemptions for certain public service corporations and motor carrier, common carrier, or other carrier passengers of certain property; the selling of certain farm, domestic, or nursery products; the privilege or right of printing or publishing certain publications; a person engaged in the business of severing minerals from the earth; certain wholesalers for selling goods to other persons for resale; receipts for management, accounting, or administrative services provided on a group basis under a certain nonprofit cost-sharing agreements; receipts or purchases by an entity that is a member of a certain affiliated group of entities; certain insurance companies or agents thereof; certain banks or trust companies; certain taxicab drivers; certain blind persons; certain accredited religious practitioners; venture capital funds or investment funds; total assessments paid by condominium unit owners for common expenses; and receipts of certain qualifying transportation facilities.

39. **Sec. 26-883 ("Specific exclusions and deductions from gross receipts").** This section is revised to conform to Va. Code § 58.1-3732(B)(2) by specifying that receipts of the shareholder, partners or members in lieu of a taxpayer attributable to business conducted in another state or foreign country shall be deducted from gross receipts or gross purchases for tax purposes.

40. **Sec. 26-891 ("Time of assessment and payment; penalties and interest; rates of interest").** Subsection (a) of this section is revised to conform to Va. Code § 58.1-3703.1(A)(2)(d), concerning the collection of unpaid taxes after 30 days from assessment, the penalties to be imposed, and how a taxpayer may demonstrate that a failure to pay was not such taxpayer's fault. Subsections (c) and (d) are revised to conform to Va. Code § 58.1-3703.1(A)(2)(e), concerning when interest and penalties may be charged.

41. **Sec. 26-905 ("Limitations, extensions, appeals and rulings").** This section is revised to conform to Va. Code § 58.1-3703.1(A)(5)—(A)(8), concerning the procedures for administrative appeals to assessing officials, definitions for certain terms, administrative appeals to the Virginia Tax Commissioner, judicial review of determinations of the Virginia Tax Commissioner, and requests for rulings from the Director of Finance, to define certain terms and to more fully set forth the procedural requirements for appeals of license tax determinations at the various levels of review.

42. **Sec. 26-955 ("Commission merchants").** This section is revised to conform to Va. Code § 58.1-3733, concerning the license tax and classification of merchant, by adding therein a new subsection (c) providing for the classification of a person engaged in the business of selling merchandise on commission by sample, circular, or catalogue for a regularly established retailer and prescribing the rate of tax for such classification.

43. **Sec. 26-962 ("Industrial loan companies and associations").** This section is revised to conform to Va. Code § 58.1-3730.1 by specifying that the tax shall not exceed $5,000.00.

44. **Sec. 26-971 ("Same—Direct sellers, retail and wholesale").** This section is revised to provide that the rate set forth in that section is to be the rate set forth in City Code § 26-871.

45. **Sec. 26-986 ("Hawkers and hucksters").** This section is revised to conform the exemptions set forth in Va. Code § 58.1-3717(D) by adding exemptions for peddlers at wholesale or for those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or certain other family supplies.

46. **Sec. 26-1000 ("Stock and bond brokers").** This section is revised by adding the limitations on gross receipts of security brokers and dealers set forth in Va. Code § 58.1-3732.5.

47. **Sec. 26-1273 ("Taxation of rental property that is not daily rental property").** This section is revised to include the exception for daily rental vehicles provided in Va. Code § 58.1-3510.6(E).

48. **Sec. 27-40 ("Automobile cruising").** This section is revised to conform to Va. Code § 46.2-1219.1 by tracking the language in the model ordinance set forth in that section. In substance, the revisions align this section with state law with regard to the period within which automobile cruising is prohibited ("three or more times within a two-hour period from 6:00 p.m. to 4:00 a.m."), the definition of "traffic control point," and the penalties for violation of the section.

49. **Sec. 27-40.1 ("Distracted driving").** This section is revised to conform to Va. Code § 46.2-818.2, which was enacted by Chapter 250 of the Acts of Assembly of 2020. Pursuant to section 3 of this act of assembly, section 27-40.1 shall not be effective until January 1, 2021.

50. **Sec. 27-162 ("Special speed limitations on bridges, causeways or viaducts").** This section is revised by removing the reference to the Commonwealth Transportation Board as the authority of that Board is covered by Va. Code § 46.2-881.

51. **Sec. 27-218 ("Conditions precedent to issuance of summons for parking violations").** This section is deleted as it is covered and superseded by Va. Code § 46.2-941.

52. **Sec. 27-357 ("Permit for transportation of certain mobile home in city").** This section is revised to conform to Va. Code § 46.2-653 by changing the terms "mobile home" or "house trailer" to "manufactured home."

53. **Sec. 28-67 ("Fee or service charge for returned check or draft").** This section is revised by including a reference to City Code § 12-4 (formerly City Code § 12-3 in the 2015 City Code), which addresses the service fee or charge for returned checks or drafts.

54. **Sec. 28-72 ("Duty of building owners to make City water and sewer service connections; duty of owner or tenant to apply for water service").** Subsection (4) of this section is revised by changing outdated references to "Department of Public Health" to "District Health Department," which is defined by City Code § 2-348 in the 2015 City Code.

55. **Sec. 28-388 ("Duties of owners and tenants").** Subsection (4) of this section is revised by changing outdated references to "Department of Public Health" to "District Health Department."

56. **Sec. 29-198 ("Passage of additional regulatory ordinances").** This section is deleted as it is covered by City Charter §§ 2.04 and 2.03.3.

57. **Sec. 30-1000.1 ("Enforcement duties").** This section is revised to conform to Va. Code § 15.2-2286(A)(4) by adding the text "The Zoning Administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period."

58. **Sec. 30-1170.3 ("Proffered conditions").** This section is revised by adding certain provisions of Va. Code § 15.2-2298(A), specifically the third paragraph thereof, concerning reasonable conditions that an owner may proffer in writing.

59. **Sec. 30-1170.8 ("Review of zoning administrator's decision").** This section is revised by adding the sentence "An aggrieved party may petition the circuit court for review of the decision of the City Council on an appeal taken pursuant to this section," as provided in Va. Code § 15.2-2301.

60. **Sec. 30-1220.33 ("Definitions; 'family'").** The definition of "family" in this section is revised to change the term "mentally retarded" to "intellectual disability," in accordance with Va. Code § 15.2-2291(A), and to change the reference to "department of mental health, mental retardation and substance abuse services" to "Department of Behavioral Health and Developmental Services."

CITY OF RICHMOND

PLANNING COMMISSION

November 2, 2020

RESOLUTION CPCR.2020.058
MOTION OF THE CITY OF RICHMOND PLANNING COMMISSION

TO DECLARE AN INTENT TO AMEND CHAPTER 30 OF THE CODE OF THE CITY OF RICHMOND AS PART OF THE RECODIFICATION PROCESS.

WHEREAS, In accordance with Section 15.2-2286 of the Code of Virginia an amendment to the zoning regulations or district maps may be initiated by motion of the City of Richmond Planning Commission provided any such motion or resolution of the Commission proposing an amendment to the regulations or district maps shall state the public purposes therefore; and

WHEREAS, In accordance with section 4.13 of the Charter of the City of Richmond and section 15.2-1433 of the Code of Virginia, the City is required to recodify the Code of the City of Richmond every five years; and

WHEREAS, the Code of the City of Richmond was last recodified by Ordinance No. 2015-224-218, adopted November 9, 2015, and must be recodified in the year 2020 in accordance with section 4.13 of the Charter of the City of Richmond and section 15.2-1433; and

WHEREAS, the proposed recodified Code of the City of Richmond incorporates changes to all chapters of the Code of the City of Richmond, including Chapter 30, to conform provisions of those chapters to state law and to reflect the current names of state agencies referenced in those chapters.

WHEREAS, the City of Richmond Planning Commission believes that it is in the best interests of the citizens of the City of Richmond that Chapter 30 of the Code of the City of Richmond be amended as part of the recodification of the Code of the City of Richmond to conform the provisions of that chapter to state law and to reflect the current names of state agencies referenced in that chapter.

NOW, THEREFORE BE IT RESOLVED THAT, for the purposes of public necessity, convenience, general welfare and good zoning practices, the City of Richmond Planning Commission hereby adopts a resolution of intent to amend Chapter 30 of the Code of the City of Richmond as part of the recodification of the Code of the City of Richmond to conform the provisions of that chapter to state law and to reflect the current names of state agencies referenced in that chapter.

Rodney M. Poole
Chair, City Planning Commission

Matthew J. Ebinger
Secretary, City Planning Commission

CODE

OF THE CITY OF

RICHMOND, VIRGINIA, 2020

Published in 2020 by Order of the City Council

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municode

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OFFICIALS

of the

CITY OF

RICHMOND, VIRGINIA

AT THE TIME OF THIS RECODIFICATION

Levar M. Stoney
Mayor

Andreas D. Addison (Council District 1)
Kimberly B. Gray (Council District 2)
Christopher A. Hilbert (Council District 3)
Kristen N. Larson (Council District 4)
Stephanie A. Lynch (Council District 5)
Ellen F. Robertson (Council District 6)
Cynthia I. Newbille (Council District 7)
Reva M. Trammell (Council District 8)
Michael J. Jones (Council District 9)
City Council

Haskell C. Brown, III
Interim City Attorney

Candice D. Reid
City Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Richmond, Virginia.

Source materials used in the preparation of the Code were the 2015 Code, as supplemented through Ord. No. 2020-030, adopted June 22, 2020, and ordinances adopted by the City Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2015 Code, as supplemented, and any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon

indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

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The publisher is most grateful to Ms. Tabrica C. Rentz, Acting Deputy City Attorney, Ms. Susan McKenney, Assistant City Attorney, and Ms. Caitlin Weston, Assistant City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the City readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the City's affairs.

Copyright

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PART I

CHARTER*

***Editor's note--**Printed in this part is the City Charter, being Chapter 116 of the 1948 Acts of the General Assembly, approved March 5, 1948. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same style of expression of numbers in text as appears in the Code of Ordinances has been used. All catchlines and capitalization in the charter conform to that found at http://law.lis.virginia.gov/charters/richmond. Additions for clarity are indicated by brackets.

Chapter 1. Incorporation and Boundaries

§ 1.01. Incorporation.

The inhabitants of the territory comprised within the limits of the city of Richmond, as the same now are or may hereafter be established by law, shall continue to be a body politic and corporate under the name of the city of Richmond and as such shall have perpetual succession, may sue and be sued, contract and be contracted with and may have a corporate seal which it may alter, renew or amend at its pleasure.

§ 1.02. Boundaries.

The boundaries of the city shall be as described in the act of the General Assembly approved March 24, 1926, found in Chapter 318 at page 533 of the Acts of Assembly of 1926 as modified and enlarged by the decree of the Circuit Court of Henrico County entered February 1, 1940, in the annexation proceedings styled City of Richmond versus County of Henrico, which decree was modified, amended and enlarged by decrees of the Supreme Court of Appeals entered June 9, 1941, in accordance with the written opinion of that court in the case styled County of Henrico, Windsor Farms, Incorporated, and others versus City of Richmond, officially reported in volume 177 of the Virginia Reports at page 754, all of which decrees are recorded in the clerk's office of the Circuit Court of the City of Richmond, Division I, in Deed Book 430-C at pages 275 and 292, and as modified and enlarged by the decree of the Circuit Court of Chesterfield County entered November 6, 1941, in the annexation proceeding styled City of Richmond versus County of Chesterfield, which decree is recorded in the clerk's office of the Circuit Court of the City of Richmond, Division I, in Deed Book 429-C, page 421, and in the clerk's office of the Circuit Court of the City of Richmond, Division II, in Deed Book 86-B, page 358, and as modified and enlarged by an order of annexation entered by the Circuit Court of Chesterfield County on July 12, 1969, which order is recorded in the clerk's office of the Circuit Court of Chesterfield County in Chancery Order Book 49, page 210.

(Acts 1975, Ch. 112, § 1; Acts 1976, Ch. 633, § 1; Acts 1998, Ch. 711)

Chapter 2. Powers

§ 2.01. General grant of powers.

The city shall have and may exercise all powers which are now or may hereafter be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a city government the exercise of which is not expressly prohibited by the said Constitution and laws and which in the opinion of the council are necessary or desirable to promote the general welfare of the city and the safety, health, peace, good order, comfort, convenience and morals of its inhabitants, as fully and completely as though such powers were specifically enumerated in this charter, and no enumeration of particular powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

§ 2.02. Financial powers.

In addition to the powers granted by other sections of this charter, the city shall have power:

(a) To raise annually by taxes and assessments in the city such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the city, in such manner as the council shall deem expedient, provided that such taxes and assessments are not prohibited by the laws of the

Commonwealth. In addition to, but not as a limitation upon, this general grant of power the city shall, when not prohibited by the laws of the Commonwealth, have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools, to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge; to levy on and collect taxes from purchasers of any public utility service and from subscribers to franchised cable antenna television service used within the city, which taxes may be added to and collected with the bills rendered purchasers of such service; to require licenses, prohibit the conduct of any business or profession without such a license, require taxes to be paid on such licenses in respect of all businesses and professions which cannot, in the opinion of the council be reached by the ad valorem system; and to require licenses of owners of vehicles of all kinds for the privilege of using the streets, alleys and other public places in the city, require taxes to be paid on such licenses and prohibit the use of streets, alleys, and other public places in the city without such licenses; provided, however, that nothing herein contained shall be construed as permitting the city to levy and collect directly or indirectly a tax on payrolls.

(b) To borrow money for the purposes and in the manner provided by Chapter 7B of this charter.

(c) To make appropriations, subject to the limitations imposed by this charter, for the support of the city government, and any other purposes not prohibited by this charter and by the laws of the Commonwealth.

(d) To appropriate, without being bound by other provisions of this charter, funds for the purpose of meeting a public emergency threatening the lives, health or property of the inhabitants of the city, provided that any such appropriation shall require at least seven affirmative votes in the council and that the ordinance making such appropriation shall contain a clear statement of the nature and extent of the emergency.

(e) To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the city government.

(f) To provide, or aid in the support of, public libraries and public schools.

(g) To grant financial aid to military units organized in the city in accordance with the laws of the Commonwealth, and to charitable or benevolent institutions and corporations, including those established for scientific, literary or musical purposes or the encouragement of agriculture and the mechanical arts, whose functions further the public purposes of the city.

(h) To establish a system of pensions for injured, retired or superannuated city officers and employees, members of the police and fire departments, teachers and other employees of the school board, judges, clerks, deputy clerks, bailiffs and other employees of the municipal courts, and to establish a fund or funds for the payment of such pensions by making appropriations out of the treasury of the city, by levying a special tax for the benefit of such fund or funds, by requiring contributions payable from time to time from such officers or employees, or by any combination of these methods or by any other method not prohibited by law, provided that the total annual payments into such fund or funds shall be sufficient on sound actuarial principles to provide for the pensions to be paid therefrom; and provided further, that the benefits accrued or accruing to any person under such system shall not be subject to execution, levy, attachment, garnishment or any other process whatsoever nor shall any assignment of such benefits be enforceable in any court.

(i) To provide for the control and management of the fiscal affairs of the city, and prescribe and require the adoption and keeping of such books, records, accounts and systems of accounting by the departments, boards, commissions, courts or other agencies of the city government provided for by this charter or otherwise by law as may be necessary to give full and true accounts of the affairs, resources and revenues of the city and the handling, use and disposal thereof.

(Acts 1972, Ch. 336, § 1; Acts 1984, Ch. 163, § 1; Acts 1990, Ch. 401, § 1; Acts 1992, Ch. 850, § 1; Acts 1993, Ch. 613, § 1; Acts 1998, Ch. 711)

§ 2.03. Powers relating to public works, utilities and properties.

In addition to the powers granted by other sections of this charter, the city shall have power:

(a) To lay out, open, extend, widen, narrow, establish or change the grade of, close, construct, pave, curb, gutter, adorn with shade trees, otherwise improve, maintain, repair, clean and light streets, including limited access or express highways, alleys, bridges, viaducts, subways and underpasses, and make and improve walkways upon streets and improve and pave alleys within the city; and the city shall have the same power and authority over any street, alley or other public place ceded or conveyed to the city or dedicated or devoted to public use as over other streets, alleys and other public places.

(b) To acquire, construct, own, maintain and operate, within and without the city, public parks, parkways, playfields and playgrounds, and to lay out, equip and improve them with all suitable devices, buildings and other structures.

(c) To collect and dispose of garbage and other refuse and to construct, maintain and operate, within and without the city, incinerators, dumps or other facilities for such purposes.

(d) To construct, reconstruct, improve, maintain and operate, within and without the city, sewers, drains, culverts and sewage disposal works, and stormwater control facilities.

(e) To assess the whole or part of the cost of making and improving walkways on then existing streets, improving or paving existing alleys, or constructing sewers, culverts and drains, upon the owners of land abutting thereon or on the street or alley in which such sewer, culvert or drain is laid in the manner provided in § 12.06 of this charter; provided, that the amount of such assessment shall not exceed the peculiar benefit resulting to the landowner from the improvement; provided further, that in lieu of any such assessment for the construction of a sewer, culvert or drain, the city may assess and collect an annual sewer tax as compensation for the use thereof, and may provide for the commutation thereof upon such terms and conditions as the council may provide by ordinance, but such assessment shall not be in excess of the peculiar benefit resulting therefrom to such abutting landowners; and provided further, that the city may acquire by condemnation or otherwise any interest or right of any owner of abutting property in the use of any sewer, culvert or drain, and thereafter charge such landowner for the use of such sewer, culvert or drain. The city may order such improvements to be made and the cost thereof apportioned in pursuance of an agreement between the city and the abutting landowners.

Editor's note--Section 12.06 of the Charter has been repealed and the intended reference is to Code of Virginia, § 15.2-2400 et seq.

(f) To construct, maintain and equip all buildings and other structures necessary or useful in carrying out the powers and duties of the city. The city may contract as provided by law with a private party or parties to provide the financing, site selection, acquisition, construction, maintenance, and leasing, or any of them, for a jail, juvenile detention facility, or other correctional facility. Nothing herein shall be interpreted to preclude operation of correctional facilities by private parties.

(g) To sell, lease or dispose of, except as otherwise provided in this charter and in the Constitution and laws of the Commonwealth, land, buildings and other property of the city, real and personal.

(h) To control and regulate the use and management of all property of the city, real and personal.

(i) To acquire, construct and maintain or authorize the construction and maintenance of bridges, viaducts, subways or underpasses over or under the James River or any other stream, creek or ravine when any portion of such bridge, viaduct, subway or underpass is within the city limits, and to charge or authorize the charging of tolls for their use by the public, and to require compensation for their use by public utility, transmission or transportation companies, except as the right to require such compensation is affected by any contract heretofore or hereafter made with the company concerned; provided, that no tolls or compensation shall ever be imposed or collected for the use of "Robert E. Lee Bridge" by any vehicle or pedestrian.

(j) To authorize by ordinance, in accordance with the Constitution and laws of the Commonwealth, the use of the streets for the laying down of street railway tracks and the operation of street railways therein under such conditions and regulations as may be prescribed by such ordinance or by any future ordinance, or to acquire by agreement or condemnation any such street railway and maintain and operate the same.

(k) To acquire, construct, own, maintain and operate, within and without the city, places for the parking or

storage of vehicles by the public, which shall include but shall not be limited to parking lots, garages, buildings and other land, structures, equipment and facilities, when in the opinion of the council they are necessary to relieve congestion in the use of streets and to reduce hazards incident to such use; provide for their management and control by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose; authorize or permit others to use, operate or maintain such places or any portions thereof, pursuant to lease or agreement, upon such terms and conditions as the council may determine by ordinance; and charge or authorize the charging of compensation for the parking or storage of vehicles or other services at or in such places.

(l) To acquire, construct, own, maintain and operate, within and without the city, airports and all the appurtenances thereof provide for their management and control by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use of any such airport or any of its appurtenances; lease any appurtenance of any such airport or any concession incidental thereto or, in the discretion of the council, lease any such airport and its appurtenances with the right to all concession thereon to, or enter into a contract for the management and operation of the same with, any person, firm or corporation on such terms and conditions as the council may determine by ordinance.

(m) To acquire, construct, own, maintain and operate, within and without the city, stadia, arenas, swimming pools and other sport facilities; provide for their management and control by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use of or admission to such stadia, arenas, swimming pools and other sport facilities, including charges for any services incidental thereto; and lease, subject to such regulations as may be established by ordinance, any such stadium, arena, swimming pool or other sport facility or any concession incidental thereto, or enter into a contract with any person, firm or corporation for the management and operation of any such stadium, arena, swimming pool or other sport facility, including the right to all concessions incident to the subject of such contract, on such terms and conditions as the council may determine by ordinance.

(n) To acquire, construct, own, maintain and operate, within and without the city, waterworks, gas plants and electric plants with the pipe and transmission lines incident thereto, to be managed and controlled as provided in Chapter 13 of this charter, for the purpose of supplying water, gas and electricity within and without the city, and to charge and collect compensation therefor and to provide penalties for the unauthorized use thereof.

(o) To acquire, construct, own, maintain and operate, within and without the city, landings, wharves, docks, canals and the approaches to and appurtenances thereof, tracks, spurs, crossings, switchings, terminals, warehouses and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares and merchandise; perform any and all services in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, ventilating, refrigerating, icing, storing and handling of goods, wares and merchandise; prescribe and collect charges from vessels coming into or using any of the landings, wharves and docks, and from persons using any of the facilities above described; provide for the management and control of such facilities or any of them by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose; lease any or all of such facilities or any concessions properly incident thereto to any person, firm or corporation, or contract with any person, firm or corporation for the maintenance and operation of any or all of such facilities on such terms and conditions as the council may determine by ordinance; apply to the proper authorities of the United States to grant to the city the privilege of establishing, maintaining and operating a foreign trade zone within or without the city; regulate the use of other landings, wharves and docks located on the James River within and without the city; prevent and remove obstructions from the harbor of the James River and in, upon or near the landings, wharves, docks or canals adjacent thereto, and collect from the person or persons responsible for such obstructions the cost of their removal; close or discontinue the use of any such wharf, landing, dock or canal now owned or hereafter acquired by the city and upon the closing or discontinuance of such use the same shall thereupon be forever discharged from any public use or easement or from any obligation theretofore imposed by reason of such public use or easement by statute or otherwise, provided, that the dock or any

part thereof conveyed by the Chesapeake and Ohio Railway Company to the William R. Trigg Company, by deed dated June 1, 1901, in accordance with the provisions of the act of assembly approved February 15, 1901, and which dock is now owned by the city may be maintained and operated by the city for such other public purposes as authorized by the city council, but further provided if said dock shall be closed by the city to such public use and purpose and filled in, the city shall make provision for disposing of the water required by said dock and shall at its own cost and expense maintain the provision so made and the city shall have the right to use or dispose of the land upon which the said landing, wharf, dock or canal may be located, together with all lands or other rights appurtenant thereto, to the same extent as if the said landing, wharf, dock, canal or lands, or right thereto belonging, had never been charged with any public use or easement; improve and keep in good, safe and navigable condition the James River in the corporate limits and within 20 miles thereof, and may hold, lease, sell or otherwise dispose of all lands or interest therein acquired for the improvement of the James River and navigation and for the construction of canals or widening the river; and provide and operate such connections by ferries, bridges, or otherwise, as may be necessary for transportation between the section of land divided by such canals.

(p) To construct, own, maintain, operate and equip a visitors center and incidental parking, playgrounds and facilities.

(Acts 1950, Ch. 251, § 1; Acts 1987, Ch. 230, § 1; Acts 1988, Ch. 269, § 1; Acts 1992, Ch. 850, § 1; Acts 1994, Ch. 215, § 1; Acts 1998, Ch. 711)

§ 2.03.1. Powers relating to certain highways.

In addition to the powers granted by other sections of this charter, the city shall have power:

(a) To construct, maintain and operate limited or controlled access or express highways within the city and to fix and revise from time to time and charge and collect tolls for transit over such highways and compensation for other uses that may be made thereof.

(Acts 1958, Ch. 185, § 1)

§ 2.03.2. Use of municipal buildings or structures for private purposes.

In addition to the powers granted by other sections of this charter, the city shall have the power to permit any building or structure acquired or constructed for any municipal purpose, or any part thereof or any space therein, which is not needed for such purpose, to be used for private purposes upon such terms and conditions as shall be prescribed by the council until such building or structure or part thereof or space therein is needed for a municipal purpose, when in the opinion of the council it is deemed proper to do so.

(Acts 1964, Ch. 120, § 3)

§ 2.03.3. Powers relating to public transportation.

In addition to the powers granted by other sections of this charter, the city shall have the power to acquire, operate, lease, or otherwise provide for the operation of a public transportation system, including, by way of illustration but not limitation, the operation of passenger buses, both within and outside the City of Richmond, including providing for transportation for pupils attending public schools operated by the school board of the City of Richmond; provided, however, that the operation of any such system outside the City of Richmond shall only be with the consent of the governing body of the political subdivision in which such operation is to occur.

(Acts 1973, Ch. 348, § 2)

§ 2.03.4. Riverfront development agreements.

(a) The city shall have the power, in the area bounded by the James River, 2nd Street, the Downtown Expressway, and 21st Street, and also including Mayo's Island, to enter into binding development agreements with any persons owning legal or equitable interests in real property there.

(b) Such an agreement between a property owner and the city shall be for the purpose of stimulating and facilitating economic growth along the Richmond riverfront, shall not be inconsistent with the master plan, and shall not authorize any use or condition not permitted by the zoning ordinance and other ordinances in effect at the

time the agreement is made. It shall be authorized by ordinance. It shall be for a term not to exceed ten years and may be renewed by mutual agreement of the parties. It may provide for uses; the density or intensity of uses; the maximum height, size, setback and/or location of buildings; the number of parking spaces required; the measures required to control stormwater; and other land use matters. It may authorize the property owner to transfer to the city land, public improvements, money, or anything of value to further the purposes of the agreement or other public purposes set forth in the city's master plan, but not as a condition to obtaining any permitted use or zoning. A property owner may agree to accept land use controls that are more restrictive than the zoning applicable to the property, conditioned on the city making public improvements, including parking, which also benefit the property; provided, however, that any agreement of the city to make such improvements shall be subject to the availability and appropriation of funds.

(c) If a property owner who is a party to such an agreement and is not in breach of the agreement dedicates or is required to dedicate real property of substantial value to the city, makes or is required to make substantial cash payments to the city, or makes or is required to make substantial public improvements for the city, then during the term of that agreement neither any amendment to the zoning map for the subject property nor any amendment to the text of the zoning ordinance with respect to the zoning district applicable to the property which eliminates or materially restricts, reduces, or modifies: the density or intensity of uses; the maximum height, size, setback or location of a building; the number of parking spaces required; or the measures required to control stormwater shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety or welfare.

(Acts 1992, Ch. 850, § 1)

§ 2.04. Power to make regulations for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of the city and its inhabitants.

In addition to the powers granted by other sections of this charter, the city shall have power to adopt ordinances, not in conflict with this charter or prohibited by the general laws of the Commonwealth, for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of its inhabitants, and among such powers, but not in limitation thereof, the city shall have power:

(a) To provide for the prevention of vice, immorality, vagrancy and drunkenness; prevention and quelling of riots; disturbances and disorderly assemblages; suppression of houses of ill fame and gambling places; prevention of lewd and disorderly conduct or exhibitions; and prevention of conduct in the streets dangerous to the public.

(b) To regulate the construction, maintenance and repair of buildings and other structures and the plumbing, electrical, heating, elevator, escalator, boiler, unfired pressure vessel, and air conditioning installations therein, for the purpose of preventing fire and other dangers to life and health.

(c) To provide for the protection of the city's property, real and personal, and prevention of the pollution of the city's water supply, and the regulation of use of parks, playgrounds, playfields, recreational facilities, landings, docks, wharves, canals, airports and other public property, whether located within or without the city. For the purpose of enforcing such regulations all city property wherever located shall be under the police jurisdiction of the city. Any member of the police force of the city or employee thereof appointed as a special policeman shall have power to make arrests for violation of any ordinance, rule or regulation adopted pursuant to this section and the district court, criminal division, shall have jurisdiction in all cases arising thereunder within the city and the district court of the county wherein the offense occurs shall have jurisdiction of all cases arising thereunder without the city.

(d) To grant or authorize the issuance of permits under such terms and conditions as the council may impose for the use of streets, alleys and other public places of the city by railroads, street railways, buses, taxicabs and other vehicles for hire; prescribe the location in, under or over, and grant permits for the use of, streets, alleys and other public places for the maintenance and operation of tracks, poles, wires, cables, pipes, conduits, bridges, subways, vaults, areas and cellars; require tracks, poles, wires, cables, pipes, conduits and bridges to be altered, removed or relocated either permanently or temporarily; charge and collect compensation for the privileges so granted; and prohibit such use of the streets, alleys and other public places of the city, and no such use shall be made of the streets, alleys, or other public places of

the city without the consent of the council.

(e) To prevent any obstruction of or encroachment over, under or in any street, alley, sidewalk or other public place; provide penalties for maintaining any such obstruction or encroachment; remove the same and charge the cost thereof to the owner or owners, occupant or occupants of the property so obstructing or encroaching, and collect the sum charged in any manner provided by law for the collection of taxes; require the owner or owners or the occupant or occupants of the property so obstructing or encroaching to remove the same; pending such removal charge the owner or owners of the property so obstructing or encroaching compensation for the use of such portion of the street, alley, sidewalk or other public place obstructed or encroached upon the equivalent of what would be the tax upon the land so occupied if it were owned by the owner or owners of the property so obstructing or encroaching, and, if such removal shall not be made within the time ordered, impose penalties for each and every day that such obstruction or encroachment is allowed to continue thereafter; authorize encroachments upon streets, alleys, sidewalks or other public places, subject to such terms and conditions as the council may prescribe, but such authorization shall not relieve the owner or owners, occupant or occupants of the property encroaching, of any liability for negligence on account of such encroachment; and recover possession of any street, alley, sidewalk or other public place or any other property of the city by suit or action in ejectment.

(f) To prescribe the route and grade of any railroad laid in the city, regulate the operation of locomotives and cars, and exclude such locomotives and cars from the city; provided, no contract between the city and the corporation operating such locomotives or cars is violated by such action.

(g) To regulate the operation of motor vehicles and exercise control over traffic in the streets of the city and provide penalties for the violation of such regulations; provided, that ordinances or administrative regulations adopted by virtue of this subsection shall not be inconsistent with the provisions of the Motor Vehicle Code of Virginia. All fines imposed for the violation of such ordinances and regulations shall be paid into the city treasury.

(h) To regulate, in the interest of public health, the production, preparation, distribution, sale and possession of milk, other beverages and foods for human consumption, and the places in which they are produced, prepared, distributed, sold, served or stored; regulate the construction, installation, maintenance and condition of all water and sewer pipes, connections, toilets, water closets and plumbing fixtures of all kinds; regulate the construction and use of septic tanks and dry closets, where sewers are not available, and the sanitation of swimming pools and lakes; provide for the removal of night soil, and charge and collect compensation for the removal thereof; compel the use of sewers, the connection of abutting premises therewith, and the installation in such premises of suitable sanitary facilities; regulate or prohibit connections to and use of sewers; provide for the quarantine of any person afflicted with a contagious or infectious disease, and for the removal of such person to a hospital or ward specially designated for contagious or infectious diseases; inspect and prescribe reasonable rules and regulations, in the interest of public health, with respect to private hospitals, sanatoria, convalescent homes, clinics and other private institutions, homes and facilities for the care of the sick, of children, the aged and the destitute; and make and enforce all regulations necessary to preserve and promote public health and sanitation and protect the inhabitants of the city from contagious, infectious or other diseases.

(i) To regulate cemeteries and burials therein, prescribe the records to be kept by the owners of such cemeteries, and prohibit all burials except in a public burying ground.

(j) To regulate or prohibit the exercise of any dangerous, offensive or unhealthful business, trade or employment, and the transportation of any offensive or dangerous substance.

(k) To regulate the light, ventilation, sanitation and use or occupancy of buildings heretofore or hereafter constructed, altered, remodeled or improved, and the sanitation of the premises surrounding the same.

(l) To regulate the emission of smoke or the construction, installation, operation and maintenance of fuel burning equipment, internal combustion engines or any other equipment or source of air pollution.

(m) To compel the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or

on any place or premises; the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public; and to compel the abatement or removal of any and all other nuisances whatsoever including the removal of inoperative or unlicensed motor vehicles or parts thereof from public or private property. If after such reasonable notice as the council may prescribe by ordinance the owner or owners, occupant or occupants of the property or premises affected by the provisions of this subsection shall fail to abate or obviate the condition or nuisance, the city may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of taxes.

(n) To regulate or prohibit the manufacture, storage, transportation, possession and use of explosive or inflammable substances and the use of exhibition of fireworks and discharge of firearms.

(o) To regulate or prohibit the making of fires in the streets, alleys and other public places in the city and to regulate the making of fires on private property.

(p) To regulate or prohibit the running at large and the keeping of animals and fowl and provide for the impounding and confiscation of any such animal or fowl found at large or kept in violation of such regulations.

(q) To prevent cruelty to and abuse of animals.

(r) To regulate the sale of goods, wares or merchandise at auction; regulate the conduct of and prescribe the number of pawnshops and dealers in secondhand goods, wares and merchandise; regulate or prohibit the peddling or hawking of any article for sale on the streets of the city; prevent fraud or deceit in the sale of goods, wares and merchandise; require the weighing, measuring, gauging and inspection of goods, wares and merchandise offered for sale; require weights and measures to be sealed and subject to inspection; and provide for the appointment of a sealer and one or more weightmasters who shall perform such duties and functions as may be prescribed by ordinance.

(Acts 1968, Ch. 644; Acts 1972, Ch. 336, § 1; Acts 1975, Ch. 112, § 1)

§ 2.04.1. Human rights commission.

The city shall have the power to establish a human rights commission consistent with the provisions of § 15.2-965 of the Code of Virginia [Code of Virginia, § 15.2-965].

(Acts 1972, Ch. 333, § 1; Acts 1989, Ch. 349, § 1; Acts 1998, Ch. 711)

§ 2.05. Miscellaneous powers.

The city shall also have power:

(a) To establish, maintain and operate public employment bureaus, public markets and public baths.

(b) To establish, maintain and operate, within and without the city, public hospitals, sanatoria, convalescent homes, clinics and other public institutions, homes and facilities for the care of the sick, of children, the aged and the destitute.

(c) To provide care for the poor and have all the powers and duties conferred and imposed on cities by the laws of the Commonwealth relating to public assistance.

(d) To establish, own, maintain and operate, within and without the city, cemeteries for the interment of the dead, fix the price at which graves and lots therein shall be sold, make contracts for their perpetual care and establish the rates to be charged for the digging of graves, construction of vaults and other services.

(e) To establish, maintain and operate, within or without the city, a jail for the confinement of prisoners, ordered or sentenced to be confined therein, and a jail farm; and compel able-bodied prisoners confined in the jail to work on such farm, with the approval of the Circuit Court of the City of Richmond. Any lockup physically located within the City of Richmond, whether in the Safety, Health and Welfare Building of the City of Richmond or elsewhere, shall be deemed a part of and included within the city

jail facility for the purposes of supervision, administration, staffing and all other aspects germane to the operation of the city jail.

(f) To acquire, in the manner provided in Chapter 18 of this charter, areas, properties, lands or any estate or interest therein, located within the city's old and historic districts which, in the opinion of the council, should be acquired, preserved and maintained for use, observation, education, pleasure and welfare of the people, or to preserve the character of the old and historic district in which such property is located; provide for their renovation, preservation, maintenance, management and control as places of old and historic interest by the department of the city government or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease or sell to a 501(c)(3) organization, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the old and historic character of the area, property or lands shall be restored and preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, property, lands or estate or interest therein so acquired as a place of old and historic interest, provided, the city shall not use the right of condemnation under this paragraph unless the historic value of such area, property, lands or estate or interest therein are about to be destroyed, including destruction through lack of maintenance.

(g) To establish and collect such fees, including a charge for expenses incurred in auditing reports, accounts and any records of organizations operating bingo games and raffles under the permissive provisions of Section 18.2-335 of the Code of Virginia [now Code of Virginia, § 18.2-340.15 et seq.] and admitting to record the annual report of such organization, as may be determined by the council to be reasonable for the rendering of special services.

(Acts 1950, Ch. 416, § 1; Acts 1972, Ch. 334, § 1; Acts 1974, Ch. 19, § 1; Acts 1978, Ch. 78, § 1; Acts 1989, Ch. 349, § 1)

§ 2.06. Enforcement of regulations.

When by the provisions of this charter or the Constitution and general laws of the Commonwealth the city is authorized to pass ordinances on any subject, the council may provide suitable penalties for the violation of any such ordinances, including ordinances effective outside the city as provided in this charter. No such penalty shall exceed the maximum fine permitted under state law for a violation of a Class 1 misdemeanor or confinement for 12 months or both. Upon conviction for violation of any ordinance, the court trying the case may require bond of the person so convicted with proper security in the penalty of not more than $2,000.00, conditioned to keep the peace and be of good behavior and especially for the period of not more than one year not to violate the ordinance for the breach of which he/she has been convicted. From any fine or confinement imposed, an appeal shall lie as in cases of misdemeanor. Whenever any fine or penalty shall be imposed but not paid, the court trying the case may, unless an appeal be forthwith taken, issue a writ of fieri facias for the collection of the amount due, returnable within 60 days from its issuance. The city is hereby expressly authorized and empowered to institute and maintain a suit or suits to restrain by injunction the violation of any ordinance legally adopted by it, notwithstanding such ordinance may provide penalties for its violation.

(Acts 1991, Ch. 396, § 1; Acts 1998, Ch. 711)

§ 2.07. Licenses and permits.

Whenever in the judgment of the council it is advisable in the exercise of any of the powers of the city or in the enforcement of any ordinance or regulation, it may provide for the issuance of licenses or permits in connection therewith, establish the amount of the fee to be charged the licensee or permittee and require from the licensee or permittee a bond and an insurance policy of such character and in such amount and upon such terms as it may determine.

§ 2.08. Injunctions against the city.

No injunction shall be awarded by any court or judge to stay the proceedings of the city or any of its officers, employees or agents in the exercise of any of their powers unless it be manifest that the city, its officers, employees or agents are transcending the authority given the city by this charter and the general laws of the Commonwealth, and also that the intervention of a court of equity is necessary to prevent injury that cannot be compensated by

damage.

Chapter 3. Elections

§ 3.01. Election of councilmen; nomination of candidates.

A. At the time of the November general election in 2004, and every second year thereafter, there shall be held a general city election at which shall be elected by the qualified voters of the city one member of council from each of the nine election districts in the city, the voters residing in each such district to elect one member for said district for terms of two years from the first day of January following their election. However, beginning with the elections to be held in 2008, and subject to approval by referendum as called for by this act, council members shall be elected for a term of four years.

B. No primary election shall be held for the nomination of candidates for the office of councilman, and candidates shall be nominated only by petition.

C. Each council member elected in accordance with this section shall reside in the election district from which such member was elected throughout the member's term on the council.

(Acts 1971, Ch. 84, § 1; Acts 1977, Ch. 513, § 1; Acts 2004, Ch. 514, § 1; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2020, Ch. 827)

Editor's note—Pursuant to Code of Virginia, § 24.2-222.1 and Ordinance No. 2001-208-202, adopted June 25, 2001, the City Council changed the election of council members to the first Tuesday in November beginning with November 2002 and every second year thereafter. In a referendum held on November 2, 2004 as required by Acts 2004, Ch. 514, § 2, the voters of the City approved the election of members of City Council to four-year terms beginning with the election to be held on November 4, 2008.

§ 3.01.1. Election of mayor.

On the first Tuesday after the first Monday in November 2004, and every four years thereafter, a general election shall be held to elect the mayor. All persons seeking to have their names appear on the ballot as candidates for mayor must comply with the provisions of Chapter 5 (§ 24.2-500 et seq.) of Title 24.2 of the Code of Virginia [Code of Virginia, § 24.2-500 et seq.] and must file with their declaration of candidacy a petition containing a minimum of 500 signatures of qualified voters of the city, to include at least 50 qualified voters from each of the nine election districts. However, these filing requirements shall only apply to the initial, general election and not to any runoff election that may subsequently become necessary.

In the general election, the person receiving the most votes in each of at least five of the nine city council districts shall be elected mayor. Should no one be elected, then the two persons receiving the highest total of votes city wide shall be considered nominated for a runoff election. The runoff election shall be held on the sixth Tuesday after the November general election between the two nominees. The date of any such runoff election shall, as soon as possible, be posted at the courthouse and published at least once in a newspaper of general circulation in the city. In any such runoff election, write-in votes shall not be counted, and the person receiving the most votes in each of at least five of the nine city council districts shall be elected mayor. In the event the two candidates in a runoff election shall each win an equal number of council districts, the candidate receiving the most votes city wide shall be elected mayor. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor, except no one may be elected mayor for three consecutive full terms, and no one may simultaneously hold the office of mayor and any other elected position.

The procedures and deadlines for voter registration, applying for an absentee ballot, and casting an absentee ballot for any runoff election shall be as provided in Chapters 4 (§ 24.2-400 et seq.), 4.1 (§ 24.2-451 et seq.), and 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia [Code of Virginia, §§ 24.2-400 et seq., 24.2-451 et seq. and 24.2-700 et seq.] for general elections.

(Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2019, Ch. 110, § 1; Acts 2019, Ch. 306, § 1)

§§ 3.02, 3.03. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 3.02 and 3.03, which pertained to nomination of candidates for council and conduct of general municipal election, and which derived from Acts 1975, Ch. 112, § 1; Acts 1976, Ch. 633, § 1; and Acts 1977, Ch. 513, § 1.

§ 3.04. Vacancies in office of councilman or mayor.

A. Vacancies in the office of councilman, from whatever cause arising, shall be filled in accordance with general law applicable to interim appointments and special elections, provided that, any provision in the general law to the contrary notwithstanding, a special election may be called to fill any such vacancy if the vacancy occurs more than one year prior to the expiration of the full term of the office to be filled.

B. A vacancy in the office of mayor shall be filled by special election conducted according to the rules herein provided for the general election and held within 60 days, but no sooner than 30 days, from the date of the vacancy. Any runoff, should one be necessary, shall be held on the first Tuesday after the fifth day following the date that voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia [Code of Virginia, § 24.2-659] or the third Tuesday following the special election, whichever is later. However, if the date by which either the special election or possible runoff election for the office of mayor must be conducted should fall within 60 days prior to a primary election or general election, then the special or runoff election shall be held on the same day as the primary or general election, if allowed by general law, or, if not allowed by general law, then the special election shall be held on the first Tuesday after the fifth day following the date that voting machines used in the primary or general election may be unsealed pursuant to § 24.2-659 of the Code of Virginia [Code of Virginia, § 24.2-659]. Any runoff that may be necessary shall be held on the first Tuesday after the fifth day following the date that the voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia [Code of Virginia, § 24.2-659] or the third Tuesday following the special election, whichever is later. The president of the council shall serve as acting mayor until a successor is elected.

C. The procedures and deadlines for voter registration, applying for an absentee ballot, and casting an absentee ballot for any runoff election as may be necessary after a special election for mayor shall be as provided in Chapters 4 (§ 24.2-400 et seq.), 4.1 (§ 24.2-451 et seq.), and 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia [Code of Virginia, §§ 24.2-400 et seq., 24.2-451 et seq. and 24.2-700 et seq.) for general elections.

(Acts 1975, Ch. 112, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1; Acts 2019, Ch. 110, § 1; Acts 2019, Ch. 306, § 1)

§ 3.04.1. Removal of council member or mayor and forfeiture of office.

A. In addition to being subject to the procedure set forth in § 24.2-233 of the Code of Virginia [Code of Virginia, § 24.2-233], any member of the council may be removed by the council for malfeasance in office or neglect of duty or for a failure to comply with the residency requirement set forth in § 3.01. The member shall be entitled to notice and hearing. It shall be the duty of the council, at the request of the person sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. From the decision of the council an appeal shall lie to the Circuit Court of the City of Richmond, Division 1.

B. The mayor may be removed following the procedure set forth in § 24.2-233 of the Code of Virginia [Code of Virginia, § 24.2-233] applicable to constitutional officers; provided, however, that the petition must be signed by a number of registered voters in each council district equal to at least ten percent of the total number of votes cast in the last general election for mayor in each respective council district.

C. The mayor or any member of council who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude, or any felony, or any misdemeanor involving possession of marijuana or any controlled substances, shall forfeit his/her office.

(Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2020, Ch. 827)

§ 3.05. Election of other city officers.

All other city officers required by the laws of the Commonwealth to be elected by the qualified voters of the city shall be nominated and elected at the time, for the terms and in the manner prescribed by the general laws of the Commonwealth. Vacancies in elective offices referred to in this section shall be filled in accordance with general law. The officers so elected or appointed shall qualify in the mode prescribed by law and shall continue in office until their successors are elected and qualified.

(Acts 1950, Ch. 251, § 1; Acts 1975, Ch. 112, § 1; Acts 1976, Ch. 633, § 1; Acts 1978, Ch. 78, § 1; Acts 1982, Ch. 658, § 1; Acts 1998, Ch. 711)

§ 3.06. Reserved.

Editor's note—Acts 1977, Ch. 513 repealed § 3.06, which derived from Acts 1976, Ch. 745.

§ 3.06.1. Submission of proposition to voters.

The council shall have authority to order, by resolution directed to the Circuit Court of the City of Richmond, the submission to the qualified voters of the city for an advisory referendum thereon, any proposed ordinance or amendment to the city charter. Upon the receipt of such resolution, the Circuit Court of the City of Richmond shall order an election to be held in accordance with the applicable provisions of Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2 of the Code of Virginia [Code of Virginia, § 24.2-681 et seq.]. Following certification of the election results by the Electoral Board to the Circuit Court, the Court shall enter an order proclaiming the results of the election, and a duly certified copy of the order shall be transmitted to the council, which may take such further action as it may deem advisable and in the best interests of the city.

If a petition requesting the submission of an amendment to this charter, set forth in such petition, signed by qualified voters equal in number to ten percent or more of the largest number of votes cast in any general or primary election held in the city during the five years immediately preceding, is filed with the clerk of the Circuit Court of the City of Richmond, he/she shall forthwith certify that fact to the court. The process and requirements for voter petitions established under state law shall be applicable to voter petitions provided for under this section, except to the extent of any conflict with requirements set forth in this charter. Upon the certification of such petition, the Circuit Court of the City of Richmond shall determine that the proposed charter amendment pertains only to the structure or administration of the city government. When such determination has been made, the court shall order an election to be held in accordance with the applicable provisions of Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2 of the Code of Virginia [Code of Virginia, § 24.2-681 et seq.], in which such proposed amendment shall be submitted to the qualified voters of the city for their approval or disapproval. If a majority of those voting thereon at such election approve the proposed amendment, such result shall be communicated by the clerk of the Circuit Court of the City of Richmond to the representatives of the city in the General Assembly with the same effect as if the council had adopted a resolution requesting the General Assembly to adopt the amendment.

(Acts 1998, Ch. 711)

Chapter 4. Council

§ 4.01. Composition; compensation; appointment of members to office of profit.

The council shall consist of nine members elected as provided in Chapter 3. Compensation of members of council shall be fixed in accordance with and within the limits prescribed in general laws of the Commonwealth for pay and expenses of councils and mayors of cities of the Commonwealth. The members of the council, subject to the approval of the council, may also be allowed their reasonable actual expenses incurred in representing the city. No member of the council shall during the term of which he/she was elected and one year thereafter be appointed to any office of profit under the government of the city.

(Acts 1954, Ch. 64; Acts 1964, Ch. 120, § 2; Acts 1968, Ch. 644, § 1; Acts 1974, Ch. 19, § 1; Acts 1975, Ch. 112, § 1; Acts 1982, Ch. 658, § 1; Acts 1992, Ch. 850, § 1)

§ 4.02. Powers.

All powers vested in the city shall be exercised by the council except as otherwise provided in this charter. In addition to the foregoing, the council shall have the following powers:

(a) To provide for the organization, conduct and operation of all departments, bureaus, divisions, boards, commissions, offices and agencies of the city.

(b) To create, alter or abolish departments, bureaus, divisions, boards, commissions, offices and agencies other than those specifically established by this charter.

(c) To create, alter or abolish and to assign and reassign to departments, all bureaus, divisions, offices and agencies except where such bureaus, divisions, offices or agencies are specifically assigned by this charter.

(d) To provide for the titles, qualifications, powers, duties and compensation of all officers and employees

of the city, subject in the case of members of the classified service to the provisions of § 5A.03 of this charter.

(e) To provide for the form of oaths and the amount and condition of surety bonds to be required of certain officers and employees of the city.

(f) To provide for the appointment and removal by the council or otherwise of such officers and employees as the council may require for the purposes of assisting the council in the discharging its legislative, oversight and constituent relations functions, as well as any officers or employees whom the council is authorized to appoint and remove pursuant to this charter or other applicable laws of the Commonwealth.

(Acts 1948, Ch. 116, § 1; Acts 1998, Ch. 711; Acts 2010, Chs. 218, 476)

§ 4.03. President of the council.

At the time of the council's January organizational meeting, the council shall elect from among its members a president of the council to preside at council meetings for a one-year term; however, beginning January 1, 2007, the president of the council shall serve a two-year term. Should a vacancy occur in the office of mayor, the president of the council will become acting mayor until a successor is elected to fill out the remainder of the unexpired term in accordance with § 3.04. An acting mayor shall have the same powers and responsibilities as the elected mayor. In addition, notwithstanding the provisions of § 3.01.1, any acting mayor shall retain his or her City Council position, including the right to vote.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1)

§ 4.04. City clerk.

The council shall appoint a city clerk for an indefinite term. He/she shall be the clerk of the council, shall keep the journal of its proceedings and shall file the original draft of all ordinances and shall maintain an index of all such ordinances. He/she shall be the custodian of the corporate seal of the city and shall be the officer authorized to use and authenticate it. All records in his/her office shall be public records and open to inspection at any time during regular business hours. He/she shall receive compensation to be fixed by the council and all fees received by him/her shall be paid into the city treasury. He/she shall appoint and remove a deputy city clerk, who shall be authorized to act as acting city clerk in the absence or disability of the city clerk, and all deputies and other employees in his/her office, and shall have such other powers and duties as may be prescribed by this charter or by ordinance.

(Acts 1977, Ch. 513, § 1; Acts 1998, Ch. 711; Acts 2005, Ch. 844, § 1)

§ 4.05. Induction of members.

The first meeting of a newly elected council shall take place in the council chamber in the city hall as provided for by general law. It shall be called to order by the city clerk who shall administer the oaths of office to the newly elected council members and, when applicable, also to the newly elected mayor. In the absence of the city clerk, the meeting may be called to order and the oaths administered by any judicial officer having jurisdiction in the city. The council shall be the judge of the election and qualifications of its members and of the mayor, but the decisions of the council in these matters shall be subject to review by the Circuit Court of the City of Richmond. The first business of the council shall be the election of a president of the council and the adoption of rules of procedure. Until this business has been completed, the council shall not adjourn for a period longer than 48 hours.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1)

§ 4.06. Rules of procedure.

The council shall have power, subject to the provisions of this charter, to adopt its own rules of procedure. Such rules shall provide for the time and place of holding regular meetings of the council which shall be not less frequently than once in each month; however, the council shall not be required to hold a regular meeting in the month of August. They shall also provide for the calling of special meetings by the mayor or any three members of the council, and shall prescribe the method of giving notice thereof, provided that the notice of each special meeting shall contain a statement of the specific item or items of business to be transacted and no other business shall be transacted at such meeting except by the unanimous consent of all the members of the council.

(Acts 1987, Ch. 230, § 1; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 4.07. Voting.

No ordinance, resolution, motion or vote shall be adopted by the council except at a meeting open to the public and, except motions to adjourn, to fix the time and place of adjournment, and other motions of a purely procedural nature, unless it shall have received the affirmative votes of at least five members. All voting except on procedural motions shall be by roll call and the ayes and noes shall be recorded in the journal.

(Acts 1992, Ch. 850, § 1)

§ 4.08. Ordinances, when required.

In addition to such acts of the council which are required by the Constitution or general laws of the Commonwealth or by this charter to be by ordinance, every act of the council creating, altering or abolishing any department or creating, altering, assigning or abolishing any bureau, division, office, agency or employment, fixing the compensation of any officer or employee of the city, making an appropriation, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a fine or penalty is imposed, or placing any burden upon or limiting the use of private property pursuant to Chapter 17 of this charter, shall be by ordinance.

§ 4.09. Ordinances, form.

Every ordinance except the annual appropriation ordinances and an ordinance codifying ordinances shall be confined to a single subject which shall be clearly expressed in its title. All ordinances shall be introduced in typewritten or printed form or a combination of both. All ordinances which repeal or amend existing ordinances shall set forth in full the section or subsection to be repealed or amended and, if it is to be amended, shall indicate matter to be omitted by enclosing the same in brackets, striking through the matter to be omitted, or by both such brackets and striking through and indicating new matter by underscoring. When printed or published prior to enactment the same indications of omitted and new matter shall be used except that strikeout type may be substituted for brackets and italics for underscoring. The enacting clause of all ordinances shall be: "The City of Richmond hereby ordains." Unless another date is specified therein and except as otherwise provided in this charter an ordinance shall take effect on the tenth day following its passage.

(Acts 1982, Ch. 658, § 1)

§ 4.10. Procedure for passing ordinances.

An ordinance may be introduced by any member or committee of the council or by the mayor at any regular meeting of the council or at any special meeting. Upon introduction a time, not less than seven days after such introduction, and place shall be set at which the council or a committee thereof will hold a public hearing on such ordinance, provided that the council may reject any ordinance on first reading without a hearing thereon by vote of six members. The hearing may be held separately or in connection with a regular or special meeting of the council and may be adjourned from time to time. It shall be the duty of the city clerk to cause to be printed in a newspaper published or in general circulation in the city, not later than the fifth day before the public hearing on the proposed ordinance, a notice containing the time and place of the hearing and the title of the proposed ordinance. It shall also be his/her duty, not later than the fifth day before the public hearing, to cause its full text to be printed or otherwise reproduced, as the council may by resolution direct, in sufficient numbers to supply copies to those who individually request them, or, if the council shall so order, to cause the same to be printed as a paid advertisement in a newspaper published or in general circulation in the city. It shall further be his/her duty to place a copy of the ordinance in a file provided each member of the council for this purpose. A proposed ordinance, unless it is an emergency ordinance, shall be finally passed at a meeting of the council following the introduction of the ordinance and after the conclusion of the public hearing thereon. If an ordinance, other than an emergency ordinance, is amended as to its substance, it shall not be passed until it shall be reprinted, reproduced or published as amended, and a hearing shall be set and advertised and all proceedings had as in the case of a newly introduced ordinance.

(Acts 1964, Ch. 120, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 4.11. Emergency ordinances.

An emergency ordinance for the immediate preservation of the public peace, health and safety may be read a second time and passed with or without amendment at any regular or special meeting subsequent to the meeting at which the ordinance was introduced, provided that prior to its passage the full text of the original ordinance has been printed in a newspaper published or in general circulation in the city. An emergency ordinance must contain a specific statement of the emergency claimed and six affirmative votes shall be necessary for its adoption.

(Acts 1998, Ch. 711)

§ 4.12. Reserved.

Editor's note—Acts of 1998, Ch. 711 repealed provisions formerly set out as § 4.12, which pertained to submission of propositions to voters and which derived from Acts 1975, Ch. 112, § 1; Acts 1976, Ch. 633, § 1; and Acts 1995, Ch. 165, § 1.

§ 4.13. Record and publication of ordinances.

Every ordinance after passage shall be given a serial number and shall be retained by the clerk in a permanent file kept for that purpose and the clerk shall maintain a permanent card or similar index. Within one year after the first Tuesday in September, 1948, there shall be prepared under the direction of the city attorney, who is hereby authorized to employ such assistance as he/she deems necessary for the purpose, a codification of all ordinances in force. Such codification shall be passed by the council as a single ordinance and without prior publication. Upon its passage it shall be published in bound or loose-leaf form. This codification, to be known and cited officially as the city code, shall be furnished to city officers and shall be sold to the public at a price to be fixed by the council. A similar codification shall be prepared, passed, published and distributed, as above provided, at least every five years. It shall be the duty of the city clerk to cause all ordinances adopted to be printed as promptly as possible after their adoption in substantially the same style and format as the codification of ordinances and sold at such prices as the Council may establish.

(Acts 1977, Ch. 513, § 1)

State law reference—Codification, Code of Virginia, § 15.2-1433.

§ 4.14. Appointments and removals generally.

The council in making appointments and removals shall act only by affirmative votes of at least five members. It may remove any person appointed by it for an indefinite term, for any lawful reason or no reason. The decision of the council shall be final.

(Acts 1998, Ch. 711; Acts 2004, Ch. 514, § 1; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 4.15. Removal of members of boards and commissions; forfeiture of office or employment for certain convictions.

A. Any member of a board or commission appointed by the council for a specified term may be removed by the council but only for malfeasance in office or neglect of duty. He/she shall be entitled to notice and hearing. It shall be the duty of the council, at the request of the person sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. From the decision of the council an appeal shall lie to the Circuit Court of the City of Richmond, Division I.

B. Any officer, appointee of the council or employee of the city who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude or any felony or any misdemeanor involving possession of marijuana or any controlled substances shall forfeit his/her office or employment.

(Acts 1975, Ch. 112, § 1; Acts 1976, Ch. 633, § 1; Acts 1990, Ch. 401, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 4.16. Powers of investigation.

(a) The council, or any committee of members of the council when authorized by the council, shall have power to make such investigations relating to the municipal affairs of the city as it may deem necessary, and shall have power to investigate any or all departments, boards, commissions, offices and agencies of the city government and any officer or employee of the city, concerning the performance of their duties and functions and use of property of the city.

(b) The mayor, the chief administrative officer, the heads of all departments, all boards and commissions whose members are appointed by the council, the city auditor, and the inspector general shall have power to make such investigations in connection with the performance of their duties and functions as they may deem necessary, and shall have power to investigate any officer or employee appointed by them or pursuant to their authority concerning the performance of duty and use of property of the city.

(c) The council, or any committee of members of the council when authorized by the council, the mayor, the chief administrative officer, the heads of departments, boards and commissions whose members are appointed by the council, the city auditor, and the inspector general, in an investigation held by any of them, may order the attendance of any person as a witness and the production by any person of all relevant books and papers. Any person, having been ordered to attend, or to produce such books and papers, who refuses or fails to obey such order, or who having attended, refuses or fails to answer any question relevant or pertinent to the matter under investigation shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $100.00 or imprisonment in jail not exceeding 30 days, either or both. Every such person shall have the right of appeal to the Circuit Court of the City of Richmond, Division I. The investigating authority shall cause every person who violates the provisions of this section to be summoned before the general district court criminal division for trial. Witnesses shall be sworn by the person presiding at such investigation, and they shall be liable to prosecution or suit for damages for perjury for any false testimony given at such investigation.

(Acts 1964, Ch. 120, § 1; Acts 1974, Ch. 19, § 1; Acts 1989, Ch. 349, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1; Acts 2018, Ch. 313, § 1; Acts 2018, Ch. 650, § 1)

§ 4.17. City attorney.

The city attorney shall be the chief legal advisor of the council, the mayor, the chief administrative officer and all departments, boards, commissions and agencies of the city in all matters affecting the interests of the city. The city attorney shall perform particular duties and functions as assigned by the council. The city attorney shall be appointed by the council, shall serve at its pleasure, and shall devote full time and attention to the representation of the city and the protection of its legal interests. The city attorney shall have the power to appoint and remove assistants or any other employees as shall be authorized by the council and to authorize any assistant or special counsel to perform any of the duties imposed upon him/her in this charter or under general law. The city attorney may represent personally or through one of his assistants any number of city officials, departments, commissions, boards, or agencies that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, commission, board, or agency. In matters where the city attorney determines that he is unable to render legal services to the mayor, chief administrative officer, or city departments or agencies under the supervision of the chief administrative officer due to a conflict of interests, the mayor, after receiving notice of such conflict, may employ special counsel to render such legal services as may be necessary for such matter.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 4.18. City auditor.

There shall be a city auditor who shall be appointed by the council for an indefinite term. The city auditor shall have been certified as a certified public accountant by the Virginia State Board of Accountancy or by the examining board of any other state which extends to and is extended reciprocity by the Commonwealth of Virginia, and shall be qualified by training and experience for the duties of the city auditor. The city auditor shall have the power to appoint such accountants and other assistants for the performance of the duties of the city auditor's office as the council may provide for. It shall be the duty of the city auditor to examine and audit all accounts, books, records, and financial transactions of the city or any department, board, commission, office, or agency thereof, including all trust funds, special funds, and other funds. In performing the city auditor's duties, the city auditor shall have access at any and all times to all books, records, and accounts of each department and agency subject to examination and audit by the city auditor.

(Acts 1998, Ch. 711; Acts 2018, Ch. 313, § 1; Acts 2018, Ch. 650, § 1)

§ 4.19. Inspector general.

There shall be an inspector general who shall be appointed by the council for an indefinite term and who shall

be qualified by training and experience for the duties of the office. The inspector general shall have the power to appoint such assistants for the performance of the duties of the inspector general's office as the council may provide for. It shall be the duty of the inspector general to conduct such investigations as may be authorized by § 15.2-2511.2 of the Code of Virginia [Code of Virginia, § 15.2-2511.2].

(Acts 2018, Ch. 313, § 1; Acts 2018, Ch. 650, § 1)

Chapter 5. Mayor and Chief Administrative Officer

§ 5.01. Mayor.

The mayor shall be the chief executive officer of the city and shall be responsible for the proper administration of city government. The mayor shall be recognized as the head of government for all ceremonial purposes, military law and the service of civil process. The office of mayor shall be a full-time position with salary and expenses set by the council.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5.01.1. Chief administrative officer.

The mayor shall appoint a chief administrative officer, subject to the advice and consent of a majority of the members of city council, who shall be chosen solely on the basis of his/her executive and administrative qualifications, with special reference to his/her actual experience in or knowledge of accepted practice with respect to the duties of his/her office. At the time of his/her appointment, the chief administrative officer need not be a resident of the city or the Commonwealth but he/she shall reside within the city during his/her tenure in office. The chief administrative officer shall serve at the pleasure of the mayor. The mayor shall set the salary of the chief administrative officer subject to the approval of a majority of the members of city council.

(Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5.02. Power of appointment and removal.

The chief administrative officer shall appoint for an indefinite term qualified officers and employees to head all the administrative departments of the city, and shall appoint, dismiss and discipline, in accordance with the city's personnel regulations, all officers and employees in such departments, except as otherwise specifically provided by law or this charter. Department heads who are appointed by the chief administrative officer shall serve at the pleasure of the chief administrative officer.

The chief administrative officer shall designate some other officer or employee to perform the duties of any office or position of the administrative service under his/her control which is vacant or which lacks administration due to the absence or disability of the incumbent.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5.03. Involvement of mayor and council in appointment and removals.

The mayor may participate in the hiring and removal of heads of administrative departments. The mayor and members of council may (i) communicate publicly or privately their approval or disapproval of the performance of any particular city employee, (ii) recommend persons to the chief administrative officer for consideration for hiring or promotion, or (iii) request of the chief administrative officer that he remove or take other disciplinary action against any particular city employee, as they may see fit. Ultimate responsibility for hiring, removal and other personnel decisions relating to administrative personnel, and for the directing of administrative personnel, shall reside in the chief administrative officer, unless expressly provided otherwise in this charter. Except for the purpose of inquiry, the mayor, council and its members shall deal with the administrative services solely through the chief administrative officer, and neither the mayor, council nor any member thereof shall give orders either publicly or privately to any subordinate of the chief administrative officer.

(Acts of 1948, Ch. 116, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 514, § 1; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1; Acts 2010, Chs. 218, 476)

§ 5.04. Temporary transfer of personnel between departments.

The chief administrative officer shall have power, whenever the interests of the city require, irrespective of

any other provisions of this charter, to assign employees of any department, bureau, office or agency, the head of which is appointed by the chief administrative officer, to the temporary performance of duties in another department, bureau, office or agency.

(Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5.05. General duties; mayor.

It shall be the duty of the mayor to:

(a) Attend, or appoint a designee empowered to answer questions and make recommendations on behalf of the mayor to attend, all meetings of the council with the right to speak but not to vote; the mayor or his designee shall have the right to attend a closed meeting pursuant to § 2.2-3711 of the Code of Virginia [Code of Virginia, § 2.2-3711] unless the council determines that the subject matter of the closed meeting includes the office of the mayor and that inclusion of the mayor or his designee shall be detrimental to the purpose of the council's deliberations;

(b) Keep the council advised of the financial condition and the future needs of the city and of all matters pertaining to its proper administration, and make such recommendations as may seem to the mayor desirable;

(c) Oversee preparation of and submit the annual budget to the council as provided in Chapter 6 of this charter;

(d) Perform such other duties as may be prescribed by this charter or which may be required of the chief executive officer of a city by the general laws of the Commonwealth, or by ordinances adopted by the council, provided that the mayor shall have the power to veto any city ordinance by written notice of veto delivered to the city clerk within 14 calendar days of council's actions, subject to override thereafter by the council with a vote of six or more of the currently filled seats on council at any regular or special meeting held within 14 calendar days of the clerk's receipt of the notice of veto; however, the appointment of members of a redevelopment and housing authority in the city shall be made by the council; and

(e) Issue such regulations as may be necessary in order to implement the mayor's duties and powers.

(Acts of 1948, Ch. 116, § 1; Acts 1950, Ch. 251, § 1; Acts 1984, Ch. 163, § 1; Acts 1989, Ch. 349, § 1; Acts 1990, Ch. 401, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1; Acts 2010, Chs. 218, 476)

§ 5.05.1. General duties; chief administrative officer.

It shall be the duty of the chief administrative officer, acting under the general direction of the mayor, to:

(a) Prepare the annual budget for submission to the council by the mayor;

(b) Prepare in suitable form for publication and submit to the council a concise report of the financial transactions and administrative activities of the city government during the fiscal year ending preceding thirtieth day of June and cause to be printed such number of copies thereof as the council shall direct;

(c) Present adequate financial and activity reports as requested by the council;

(d) Fulfill the city's responsibilities for maintaining cemeteries as provided for in § 2.05(d) of the charter and § 15.2-1121 of the Code of Virginia [Code of Virginia, § 15.2-1121];

(e) Attend, or be represented at, all meetings of the council in order to answer questions and make recommendations on behalf of the mayor, provided that prior to any such meetings, council has given the mayor at least 72 hours of advance notice of the matters on which it seeks information or a recommendation; and

(f) Perform such other duties as may be prescribed by this charter, by city ordinance, or required of him/her in accordance therewith by the mayor other than the duties conferred on the mayor by this charter.

(Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 5.06. Relations with boards, commissions and agencies.

The mayor, or the mayor's designee, shall have the right to attend and participate in the proceedings of, but not to vote in, the meetings of all boards, commissions or agencies created by this charter or by ordinance, except the school board and the board of zoning appeals.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1)

§ 5.07. Acting chief administrative officer.

The mayor shall, with the advice and consent of a majority of the members of council, designate the head of a department, bureau or other officer appointed by the chief administrative officer, to act as chief administrative officer in case of the absence, incapacity, death or resignation of the chief administrative officer, until his/her return to duty or the appointment of his/her successor. An acting chief administrative officer shall serve at the pleasure of the mayor.

(Acts 1960, Ch. 7, § 1; Acts 1962, Ch. 65, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5.08. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed § 5.08, which pertained to the budget bureau generally and which derived from Acts 1968, Ch. 644, § 1.

§§ 5.09—5.12. Reserved.

Editor's note—Sections 5.09—5.12 were repealed by Acts 1956, Ch. 130, § 2.

§§ 5.13—5.13.2. Reserved.

Editor's note—Sections 5.13—5.13.2 were repealed by Acts 1998, Ch. 711. Said provisions derived from Acts 1954, Ch. 64, § 1; Acts 1956, Ch. 130, § 1; Acts 1972, Ch. 335, § 1; Acts 1972, Ch. 811, § 1; and Acts 1987, Ch. 230, § 1, and pertained to the power of the council to assign budget bureau to department of finance and to transfer function of maintaining sewers, drains and culverts and maintaining and operating sewage disposal plant to department of public utilities; the power of council to assign to department and director of public works certain bureaus and duties; and the power of council to establish a bureau of inspection and environmental control and department of social services.

Chapter 5-1. Reserved*

***Editor's note—**Acts 1998, Ch. 711 amended the City Charter by deleting provisions formerly set out as chapter 5-1, pertaining to the department of general services and derived from:

Acts	Chapter	Section
1956	130	1
1958	185	2
1964	120	2
1968	644	1
1974	19	1
1975	112	1
1978	78	1
1981	199	1
1982	658	1
1985	22	1

In addition, Acts 1998, Ch. 711 added new provisions set out as Chapters 5A and 5B.

Chapter 5A. Administration

§ 5A.01. Creation of departments.

The city council may establish administrative departments, bureaus, divisions, or offices, or may alter, combine or abolish existing administrative departments, bureaus, divisions or offices; however, neither the council, the mayor nor the chief administrative officer shall have the power to alter the purpose of, combine, transfer or abolish any department created by this charter.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5A.02. Responsibility of department heads.

There shall be a director appointed by the chief administrative officer as the head of each administrative department. Such directors shall be chosen on the basis of their executive and administrative ability, experience and education, and shall serve at the pleasure of the chief administrative officer.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 5A.03. Personnel rules and regulations.

The council, upon receiving any recommendations submitted to it by the mayor, shall establish a personnel system for the city administrative officials and employees. Such system shall be based on merit and professional ability and shall not discriminate on the basis of race, national origin, religion, sex, age, disabilities, political affiliation, or marital status. The personnel system shall consist of rules and regulations which provide for the general administration of personnel matters, a classification plan for employees, a uniform pay plan and a procedure for resolving grievances of employees as provided by general law for either local government or state government employees.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

Chapter 5B. Retirement System

§ 5B.01. Retirement system established.

The retirement system for the city employees hitherto established by ordinance shall continue in force and effect subject to the right of the council to amend or repeal the same as set forth in such ordinance. From and after July 1, 1978, the Board of Trustees of the Richmond Retirement System shall consist of seven members for terms of three years. Any vacancy shall be filled for the unexpired portion of the term. The mayor shall appoint two members; the council shall appoint five members, at least two of whom shall be members of the classified service. Such members of the Board of Trustees of the Richmond Retirement System shall have the responsibility of the supervision of the administration of the retirement plan, the determination of eligibility for the receipt of retirement benefits, the award of retirement benefits as authorized by ordinance of the City of Richmond, and such other duties as have heretofore been exercised by the Board of Trustees of the Richmond Retirement System other than fiduciary responsibilities concerning the management, control and investment of the financial resources of the Richmond Retirement System. The council of the City of Richmond may appoint and employ a corporation, vested with fiduciary powers under either the laws of the United States or the Commonwealth of Virginia, to be responsible for the investment of the funds of the Richmond Retirement System, which funds shall include any securities which may now or hereafter be part of the assets of such Richmond Retirement System. The director of finance shall be the disbursing officer for the payment of benefits awarded by the trustees of the Richmond Retirement System and as such shall perform such duties as may be required of the director of finance by ordinance but shall receive no additional compensation on account of such duties. To administer the retirement plan, the council may provide for an executive director to be appointed, supervised and removed by the Board of Trustees of the Richmond Retirement System and for employees to be appointed, supervised and removed by the executive director.

(Acts of 1948, Ch. 116, § 1; Acts 1998, Ch. 711; Acts 2005, Ch. 844, § 1; Acts 2010, Chs. 218, 476)

§ 5B.02. Post-retirement supplements.

(a) In addition to the allowance authorized to be paid under § 51.1-801 of the Code of Virginia [Code of Virginia, § 51.1-801], the council may, by ordinance, provide for post-retirement supplements, payable in accordance with the provisions of this section, to the recipients of such allowances. Such supplements shall be subject to the same conditions of payment as are such allowances.

(b) The amounts of the post-retirement supplements provided for hereunder shall be determined as

percentages of the allowances authorized to be supplemented hereby. Such percentages may be determined by reference to the increase, if any, in the United States Average Consumer Price Index for all items, as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the calendar year in which the allowance initially commenced as a result of the death or retirement of a member of a system of retirement authorized by § 5B.01 to its monthly average for the calendar year immediately prior to the calendar year as of which the amount of the post-retirement supplement is determined. Such supplement may be either the percentage computed from the actual increase in such index or some percentage of such actual increase.

(c) Amounts of post-retirement supplements shall be determined initially by the ordinance adopting the same, and thereafter as may be provided by ordinance.

(d) Any ordinance adopted hereunder may be retroactive to the extent that the council has heretofore appropriated funds for post-retirement supplements, which appropriation has been otherwise unexpended.

(Acts 1998, Ch. 711)

Chapter 6. Budgets

§ 6.01. Fiscal and tax years.

The fiscal year of the city shall begin on July 1 and shall end on June 30 of the succeeding year. The tax year for taxes levied on real estate, tangible personal property and machinery and tools shall begin on January 1 and end on December 31 following, and the tax year for all other taxes shall be fixed by the council by ordinance. The rate of taxes levied on real estate shall be fixed as authorized in § 58.1-3321 of the Code of Virginia [Code of Virginia, § 58.1-3321]. The rates of all other taxes and levies, except on new sources of tax revenues, shall be fixed before the beginning of the tax year.

(Acts 1958, Ch. 185, § 2; Acts 1962, Ch. 165, § 1; Acts 1982, Ch. 658, § 1; Acts 1993, Ch. 613, § 1)

§ 6.02. Submission.

On a day to be fixed by the council, but in no case earlier than the second Monday of February or later than the seventh day of April in each year, the mayor shall submit to the council: (a) separate current expense budgets for the general operation of the city government, for the public schools and for each utility as defined in Chapter 13 of this charter; (b) a budget message; and (c) a capital budget.

(Acts 1958, Ch. 185, § 2; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.03. Preparation.

It shall be the duty of the head of each department, the judges of the municipal courts, each board or commission, including the school board, and each other office or agency supported in whole or in part by the city, including the attorney for the Commonwealth, to provide, at such time as the mayor may prescribe, estimates of revenue and expenditure for that department, court, board, commission, office or agency for the ensuing fiscal year. Such estimates shall be submitted in a form as determined by the mayor, and it shall be the duty of the head of each such department judge, board, commission, office or agency to supply all of the information which the mayor may require to be submitted thereon. The mayor shall hold such hearings as he/she may deem advisable and shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he/she may deem proper, subject to the laws of the Commonwealth relating to obligatory expenditures for any purpose, except that in the case of the school board, he/she may recommend a revision only as permitted by § 22.1-94 of the Code of Virginia [Code of Virginia, § 22.1-94] or any other provision of general law not in conflict with this charter.

(Acts 1989, Ch. 349, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.04. Scope of the budget.

In respect to each utility there shall be included in the budget estimates only the net amounts estimated to be received from or to be appropriated to such utility in the budget as provided in § 6.13. The budget shall be prepared in accordance with accepted principles of municipal accounting and budgetary procedures and techniques.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the mayor deems desirable or the city council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year.

(Acts 1986, Ch. 119, § 1; Acts 1989, Ch. 349, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 6.05. Balanced budget required.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance.

(Acts 1989, Ch. 349, § 1; Acts 1998, Ch. 711)

§ 6.06. The budget message.

The budget message shall contain the recommendations of the mayor concerning the fiscal policy of the city, a description of the important features of the budget plan, an explanation of all salient changes in each budget submitted, as to estimated receipts and recommended expenditures as compared with the current fiscal year and the last preceding fiscal year, and a summary of the proposed budgets showing comparisons similar to those required by § 6.04 above.

(Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.07. Appropriation and additional tax ordinances.

At the same time that he/she submits the budget, the mayor shall introduce in the council any appropriation ordinance required. The appropriation ordinance shall be based on the budget but need not be itemized further than by departments unless required by the council. At the same time, the mayor shall also introduce any ordinance or ordinances altering the tax rate on real estate and tangible personal property or levying a new tax or altering the rate of any other tax necessary to balance the budget as hereinbefore provided. The hearing on the budget plan as a whole, as provided in § 6.09, shall constitute the hearing on all ordinances referred to in this section, and the appropriation ordinances for each utility.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.08. Distribution of copies of budget message and budgets.

The mayor shall cause the budget message to be printed, mimeographed or otherwise reproduced for general distribution at the time of its submission to the council and sufficient copies of the general fund, school and utility budgets to be made to supply copies to each member of the council and each newspaper published or in general circulation in the city and two copies to be deposited in the office of the city clerk where they shall be open to public inspection during regular business hours.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 6.09. Public hearings on budget plan.

A public hearing on the budget plan as a whole shall be held by the Council within the time and after the notice provided for hearings on ordinances by § 4.10 of this charter, except that the notice of such hearing shall be printed in a newspaper published or in general circulation in the city.

(Acts 1993, Ch. 613, § 1; Acts 1998, Ch. 711)

§ 6.10. Action by council on budget generally.

After the conclusion of the public hearing, the council may insert new items of expenditure or may increase, decrease or strike out items of expenditure in the budget, except that no item of expenditure for debt service or required to be included by this charter or other provision of law shall be reduced or stricken out. The council shall not alter the estimates of receipts contained in the said budget except to correct omissions or mathematical errors, and it shall not cause the total of expenditures as recommended by the mayor to be increased without a public hearing on such increase, which shall be held not less than five days after notice thereof has been printed in a

newspaper published or in general circulation in the city. The council shall in no event adopt a budget in which the total of expenditures exceeds the receipts, estimated as provided in § 6.04, unless at the same time it adopts measures for providing additional revenue in the ensuing fiscal year sufficient to make up this difference.

(Acts 1982, Ch. 658, § 1; Acts 1998, Ch. 711; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.11. Adoption of budget, appropriation ordinance and ordinances for additional revenue; mayor's veto.

Not later than the thirty-first day of May in each year the council shall adopt the budget, the appropriation ordinances and such ordinances providing for additional revenue as may be necessary to put the budget in balance. If for any reason the council fails to adopt the budget on or before such day, the budget as submitted by the mayor shall be the budget for the ensuing year and the appropriation ordinance and the ordinances providing additional revenue, if any, as recommended by the mayor shall have full force and effect to the same extent as if the same had been adopted by the council, notwithstanding anything to the contrary in this charter.

The mayor shall have the power to veto any particular item or items of any city budget ordinance, by written notice of veto delivered to the city clerk within 14 calendar days of council's action. Council may thereafter override the mayor's veto with a vote of six or more of the currently filled seats on council at any regular or special meeting held within 14 calendar days of the city clerk's receipt of the notice of veto. Vetoes of any one or more items shall not affect other items not vetoed.

(Acts 1958, Ch. 185, § 2; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.12. Effective date of budget; certification and availability of copies thereof.

Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy of such budget as finally adopted shall be certified by the city clerk. Copies of the budget, capital program and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the city.

(Acts 1998, Ch. 711; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.13. Utility budgets and related ordinances.

Separate budget estimates for each of the utilities as defined in Chapter 13 of this charter shall be submitted to the mayor at the same time as the budgets of other departments and in the form prescribed by the mayor, subject, however, to the provisions of Chapter 13 which shall also control the action of the mayor and council thereon. The mayor shall submit with the budget of each utility an ordinance making appropriations for the operation of such utility during the ensuing fiscal year. He/she shall also at the same time submit any ordinance changing the rates to be charged by the utility, used in estimating receipts. The council shall have the same powers and be subject to the same limitations with regard to the adoption of such utility budgets and accompanying appropriation and rate ordinances, subject to the provisions of the said Chapter 13, as are conferred or imposed on it by § 6.10 with regard to the budget and its accompanying appropriation and revenue ordinances. If for any reason the council fails to adopt the utility budgets or any of them before the expiration of the time set for the adoption of the budget, such budget or budgets and the accompanying appropriation ordinance or ordinances and the ordinances changing rates, if any, shall have full force and effect to the same extent as if the same had been adopted by the council, notwithstanding anything to the contrary in this charter.

(Acts 1954, Ch. 64, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 6.14. School budget.

It shall be the duty of the school board to submit its budget estimates to the mayor at the same time as other departments and in the form prescribed by the mayor. The mayor and council may take any action on the school budget permitted by § 22.1-94 of the Code of Virginia [Code of Virginia, § 22.1-94] or any other provision of general law not in conflict with this charter. The school board shall before the beginning of the fiscal year file with the director of finance its budget as finally revised and its appropriations based thereon. It shall have power to order during the course of the fiscal year transfers from one item of appropriation to another, notice of which shall be immediately transmitted to the director of finance. The director of finance shall have the same authority to require expenditures to be made by school officers in accordance with the school budget as he/she is given by this charter

to require expenditures by other city officers to be made in accordance with the general fund or utility budgets.

(Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1)

§§ 6.15—6.15.2. Reserved.

Editor's note—Acts 1998, Ch. 711, repealed §§ 6.15—6.15.2, which pertained to work programs and allotments, coliseum renewal fund, and Richmond Centre renewal fund, and which derived from Acts 1983, Ch. 164, § 1; Acts 1985, Ch. 22, § 1; and Acts 1987, Ch. 230, § 1.

§ 6.15:3. School buildings and infrastructure modernization.

(a) Not later than January 1, 2019, the mayor shall formally present to the city council a fully funded plan to modernize the city's K-12 educational infrastructure consistent with national standards or inform city council such a plan is not feasible. In fulfilling the duties herein, the mayor shall consult with the school board and city council, consider cost savings available in state or federal law, and further provide an opportunity for public participation.

(b) Such fully funded plan required in subsection (a) shall not be based on the passage of new or increased taxes for that purpose.

(c) Nothing herein shall alter powers previously given to the school board.

(d) Once the mayor has complied with subsection (a), the city council shall have 90 days to take such action as it deems appropriate.

(Acts 2018, Ch. 664, § 1)

§ 6.16. Amendments after adoption.

(a) At any time within the fiscal year, upon the recommendation of the mayor and certification of the director of finance that there remain sufficient funds not theretofore allotted for a specific purpose, the council may, by not less than six affirmative votes, allot all or part of the funds appropriated to an account designated "Reserve for Contingencies" as authorized in § 15.2-2505 of the Code of Virginia [Code of Virginia, § 15.2-2505] for a designated program or project and authorize expenditure of the funds so allotted.

(b) If at any time during the fiscal year the mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council may by not less than six affirmative votes, and only upon the recommendation of the mayor, make supplemental appropriations for the year up to the amount of such excess.

(c) If at any time during the fiscal year it appears probable to the mayor that the revenue or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the mayor shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the mayor and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit, and for that purpose it may by ordinance reduce one or more appropriations.

(d) At any time during the fiscal year, at the request of the mayor, the city council may by ordinance adopted by not less than six affirmative votes transfer part of or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units.

(e) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Acts 1982, Ch. 658, § 1; Acts 1985, Ch. 22, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§§ 6.17, 6.17.1. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 6.17 and 6.17.1, which pertained to additional appropriations and participation in state and federal grants, and which derived from the following:

Acts	Chapter	Section
1970	226	1
1972	336	2
1973	348	1
1974	19	1
1982	658	1
1987	230	1
1993	613	1
1995	165	1

§ 6.18. Lapsing of appropriations.

Every appropriation, except an appropriation designated for special revenue or for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. Appropriations designated special revenue (funding provided beyond 12 months or extends beyond the end of the city's fiscal year) shall not lapse at the close of the fiscal year but shall remain in force for the life of the multiyear project, until expended, revised, or repealed. The purpose of any such multiyear appropriation should be restricted based on grant award instructions.

An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

(Acts 1998, Ch. 711; Acts 2004, Ch. 514, § 1)

§ 6.19. Capital budget.

At the same time he/she submits the current expense budgets, the mayor shall submit to the council a program which he/she shall previously have submitted to the city planning commission of proposed capital improvement projects for the ensuing fiscal year and for the four fiscal years thereafter, with his/her recommendations as to the means of financing the improvements proposed for the ensuing fiscal year. The council shall have power to accept with or without amendments or reject the proposed program and proposed means of financing for the ensuing fiscal year; and may from time to time during the fiscal year amend by ordinance adopted by at least six affirmative votes the program previously adopted by it or the means of financing the whole or any part thereof or both, provided that the amendment shall have been recommended by the mayor and shall have been submitted to the city planning commission for review and such additional funds as may be required to finance the cost of the improvements are available. The council shall adopt a capital budget prior to the beginning of the fiscal year in which the budget is to take effect. No appropriation provided for a capital improvement purpose defined in the capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided the council shall have the power to transfer at any time any appropriation or any unencumbered part thereof from one purpose to another on the recommendation of the mayor. The mayor may transfer the balance remaining to the credit of any completed project to an incompleted project for the purpose of completing such project, provided the projects have been approved in the adoption of a capital budget or budgets. If no such transfers are made, the balances remaining to the credit of completed or abandoned purposes and projects shall be available for appropriation and allocation in a subsequent capital budget or budgets. Any project shall be deemed to have been abandoned if three fiscal years elapse without any expenditure from or encumbrance of the funds provided therefor. The council shall have the power at any time to abandon or to reduce the scope of any project in a capital budget to the extent that funds appropriated therefor are unexpended and unencumbered.

(Acts 1950, Ch. 251, § 1; Acts 1954, Ch. 64, § 1; Acts 1964, Ch. 120, § 2; Acts 1973, Ch. 348, § 1; Acts 1977, Ch. 513, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 6.20. Certification of funds; penalties for violation.

Except as otherwise provided in § 13.06 of this charter, no payment shall be made and no obligation incurred by or on behalf of the city or the school board except in accordance with an appropriation duly made and no payment shall be made from or obligation incurred against any allotment or appropriation unless the director of finance or his designee shall first certify that there is a sufficient unexpended and unencumbered balance in such allotment or appropriation to meet the same. Every expenditure or obligation authorized or incurred in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be deemed illegal and every official who shall knowingly authorize or make such payment or knowingly take part therein and every person who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the city for the full amount so paid or received. If any officer, member of a board or commission, or employee of the city or of the school board, shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this charter or knowingly take part therein such action may be cause for his/her removal. Nothing in this section contained, however, shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided the nature of such transactions will reasonably require, in the opinion of the council, the making of such contracts.

(Acts 1950, Ch. 251, § 1; Acts 1954, Ch. 64, § 1; Acts 1991, Ch. 396, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 514, § 1)

§ 6.21. Reserve fund for permanent public improvements.

The council may by ordinance establish a reserve fund for permanent public improvements and may appropriate thereto any portion of the general fund cash surplus not otherwise appropriated at the close of any fiscal year. It may likewise assign to the said fund a specified portion of the ad valorem tax on real estate and tangible personal property or other source of revenue. Appropriations from the said fund shall be made only to finance improvements included in the capital budget.

(Acts 1954, Ch. 64, § 1; Acts 1998, Ch. 711)

Chapter 7. Reserved*

***Editor's note—**Acts 1992, Ch. 850 amended the Charter of the City by repealing chapter 7, which pertained to borrowing by the City.

Chapter 7A. Reserved*

***Editor's note—**Chapter 711 of the Acts of 1998 amended the Charter of the City by repealing chapter 7A, which pertained to borrowing by the City and which derived from Acts 1992, Ch. 850, **§** 1.

Chapter 7B. Borrowing

§ 7B.01. General borrowing power of city council.

The council may, in the name of and for the use of the city, incur indebtedness by issuing its bonds, notes or other obligations for the purposes, in the manner and to the extent provided by the general law of the Commonwealth of Virginia, as supplemented by the provisions of this chapter. Bonds, notes or other obligations authorized in compliance with the provisions of the charter as in effect at the time of such authorization may be issued whether or not such authorization complied with provisions of general law in effect at the time of their authorization.

(Acts 1998, Ch. 711)

§ 7B.02. Limitations on indebtedness.

In the issuance of bonds, notes and other obligations the city shall be subject to the limitations as to amount contained in Article VII, Section 10, of the Constitution of Virginia.

(Acts 1998, Ch. 711)

§ 7B.03. Emergency expenditures.

The city may authorize by ordinance the issuance of bonds, notes or other obligations to provide for emergency expenditures. Bonds, notes or other obligations may be issued to finance an appropriation to meet a public emergency, as provided in § 2.02(d) of this charter, when authorized by the ordinance making such appropriation.

(Acts 1998, Ch. 711)

§ 7B.04. Procedures for adopting ordinances authorizing the issuance of bonds or notes.

(a) The procedure for the adoption of an ordinance authorizing the issuance of bonds shall be the same as for the adoption of any other ordinance, except that six affirmative votes shall be necessary for its adoption. No such ordinance shall take effect until the 31st day after publication of notice of its adoption as hereinafter provided.

(b) Within ten days after the adoption of an ordinance authorizing the issuance of bonds, the city clerk shall cause notice of the adoption of such ordinance to be printed in a newspaper published or in general circulation in the city. Such notice shall include a statement that the 30-day period of limitation within which to file a petition for referendum on the ordinance authorizing the issuance of bonds shall have commenced as of the date of such publication.

(c) The procedure for the adoption of an ordinance authorizing the issuance of notes shall be the same as for the adoption of any other ordinance, except that no such ordinance shall be passed as an emergency ordinance and that six affirmative votes shall be necessary for its adoption. An ordinance authorizing the issuance of notes shall not be subject to the requirement of publication of notice of adoption as hereinabove provided, nor shall such ordinance be subject to the provisions of § 7B.05 of this charter concerning petition for referendum. Such ordinance shall be effective immediately unless otherwise provided by the city council in such ordinance.

(Acts 1998, Ch. 711)

§ 7B.05. Optional referendum on ordinance authorizing the issuance of bonds.

If, within 30 days after publication of notice of adoption as required by § 7B.04(a) of this charter, a petition, signed and verified as hereinafter provided and requesting the submission to the qualified voters of the city of an ordinance authorizing the issuance of bonds, shall be filed with the clerk of the Circuit Court of the City of Richmond, such ordinance shall be so submitted at an election called for such purpose. The provisions of § 3.06.1 of this charter as to the qualifications of the persons who sign the petition, the number of signatures to be required, the verification thereof, the filing of the petition and the request for the election shall apply equally to the petition and election provided for in this section. The election shall be ordered, conducted, and the results ascertained and certified in accordance with general law. If a majority of those voting thereon at such election shall fail to approve the ordinance, such ordinance shall be void. If a majority of those voting thereon at such election shall approve the ordinance, such ordinance shall be effective immediately.

(Acts 1998, Ch. 711)

§ 7B.06. Procedures for sale and terms of bonds and notes.

All bonds and notes shall be sold in such manner, either at public or private sale, for such price and upon such terms, including without limitation amounts, principal maturities, sinking fund requirements, maturity dates, interest rates and redemption features, as the council may determine by ordinance or resolution, or as the director of finance, with the approval of the chief administrative officer, may determine, when authorized to do so by ordinance or resolution. Furthermore, interest rates may be determined by reference to indices or formulas or agents designated by the council under guidelines established by it, or, when authorized to do so by ordinance or resolution, such determination and designation may be made by the director of finance, with the approval of the chief administrative officer.

(Acts 1998, Ch. 711; Acts 2005, Ch. 844, § 1)

Chapter 8. Financial Administration

§ 8.01. Establishment and composition of department of finance.

There shall be a department of finance for the administration of the financial affairs of the city, including exercise of the powers conferred and duties imposed by law upon commissioners of the revenue, collectors of taxes, license inspectors, city treasurers, and similar officers.

(Acts 1982, Ch. 658, § 1; Acts 1989, Ch. 349, § 1; Acts 1998, Ch. 711)

§ 8.02. Reserved.

Editor's note—Section 8.02 of the Charter, providing that the director of finance be finance department head and setting out his/her qualifications, was repealed by Acts 1998, Ch. 711.

§ 8.03. General powers and duties of director of finance.

The director of finance, under the supervision of the chief administrative officer, shall have charge of the administration of the financial affairs of the city and to that end he/she shall have authority and shall be responsible for the department of finance in order to discharge the following functions:

(a) Manage the city's finances in a professionally accountable and responsible manner.

(b) Provide for regular reporting of the city's financial condition in conformance with generally accepted accounting principles.

(c) Receive, deposit in legal depositories, maintain custody of and disburse all funds of the city or in the possession of the city, and prudently invest such funds as they are available for investment. The director shall not be liable for any loss sustained of funds so deposited.

(d) Protect the interests of the city by withholding the payment of any claim or demand by any person, firm or corporation against the city until any indebtedness or other liability due from such person, firm or corporation shall first have been settled and adjusted.

(e) Administer all debt of the city to include its issue, registration, transfer and retirement or redemption.

(f) Enforce the provisions of this charter and the ordinances of the city with regard to any financial matters of the city.

(Acts 1950, Ch. 251, § 1; Acts 1975, Ch. 112, § 1; Acts 1982, Ch. 658, § 1; Acts 1988, Ch. 269, § 1; Acts 1989, Ch. 349, § 1; Acts 1990, Ch. 401, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

§ 8.03.1. Reserved.

Editor's note—Section 2 of Acts 1989, Ch. 349, repealed former § 8.03.1, transfer of duties of commissioner of revenue to Director of Finance, which derived from Acts 1978, Ch. 78, § 1.

§ 8.04. Reserved.

Editor's note—Section 2 of Acts 1989, Ch. 349, repealed former § 8.04 which pertained to the bureau of accounting and control and derived from Acts 1948, Ch. 116, as amended through 1982.

§ 8.05. Reserved.

Editor's note—Section 8.05, pertaining to the division of collection, tax liens and collection of delinquent taxes, was repealed by Acts 1988, Ch. 269, § 2. The repealed provisions derived from Acts 1976, Ch. 633, § 1, and Acts 1982, Ch. 658, § 1.

§ 8.05.1. Reserved.

Editor's note—Section 8.05.1, relating to the consolidation of functions of the bureau of collection and the office of collector of taxes and derived from Acts 1966, Ch. 243, was repealed by Acts 1982, Ch. 658, § 2.

§§ 8.06, 8.07. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 8.06 and 8.07, which pertained to the sale of property for taxes and the correction of assessments and exoneration of taxes, and which derived from Acts 1974, Ch. 19, § 1; Acts 1976, Ch. 633, § 1; and Acts 1986, Ch. 119, § 1.

§ 8.08. Reserved.

Editor's note—Section 2 of Acts 1989, Ch. 349, repealed former § 8.08, which pertained to the division of license inspection and derived from Acts 1982, Ch. 658, § 1.

§ 8.09. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed § 8.09, which pertained to the City Auditor and derived from Acts 1954, Ch. 64, § 1; Acts 1973, Ch. 348, § 1; Acts 1974, Ch. 19, § 1; Acts 1982, Ch. 658, § 1.

§ 8.10. Annual audit.

The council shall cause to be made annually an independent financial audit of all accounts, books, records and

financial transactions of the city by the auditor of public accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by the council. The audit shall be of sufficient scope to express an opinion as to whether the books and records and the financial statements prepared therefrom as contained in the annual financial report of the city present fairly the fiscal affairs of the city in accordance with generally accepted accounting principles of municipal accounting and applicable governing laws. The report of such audit shall be filed within such time as the council shall specify and one copy thereof shall be always available for public inspection in the office of the city clerk during regular business hours.

(Acts 1977, Ch. 513, § 1; Acts 1982, Ch. 658, § 1; Acts 1998, Ch. 711)

Chapter 9. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 9, which pertained to the department of personnel and derived from the following:

Acts	Chapter	Section
1950	251	1
1952	182	1
1958	185	2
1968	644	1
1970	226	1
1971	130	1
1972	336	1
1974	19	1
1975	112	1
1977	513	1
1978	78	1
1981	199	1
1982	658	1
1983	164	1
1984	163	1
1985	22	1
1986	119	1
1987	230	1
1989	349	
1990	401	1
1993	613	1

Chapter 10. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 10, which pertained to the department of law and derived from Acts 1948, Ch. 116; and Acts 1964, Ch. 120, § 1.

Chapter 11A. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 11A, which pertained to the department of police and derived from Acts

1992, Ch. 850.

Chapter 11B. Reserved*

***Editor's note—**Acts of 1998, Ch. 711 repealed chapter 11B, which pertained to the department of fire and emergency services and derived from Acts 1992, Ch. 850.

Chapter 11C. Reserved*

***Editor's note—**Acts of 1998, Ch. 711 repealed chapter 11C, which pertained to traffic control and derived from Acts 1992, Ch. 850

Chapter 12. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 12, which pertained to the department of public works and derived from the following:

Acts	Chapter	Section
1948	11	
1950	251	1
1954	64	1
1956	130	1
1958	185	2
1964	120	2
1970	226	1
1972	336	1
1974	19	1
1975	112	1
1981	199	1
1985	22	1
1994	215	1

Chapter 13. Department of Public Utilities

§ 13.01. Department of public utilities; created; composition.

There shall be a department of public utilities which shall consist of the director of public utilities and such other officers and employees organized into such bureaus, divisions and other units as may be provided by ordinance or by the orders of the director consistent therewith. The director shall have power to make rules and regulations consistent with this charter and the ordinances of the city for the conduct of its business.

(Acts 1998, Ch. 711)

§ 13.02. Functions.

The department of public utilities shall be responsible for:

(a) The operation of the water, wastewater, stormwater, gas and electric utilities of the city, including street lighting;

(b) The collection of all charges for the services of such utilities; and

(c) Such other powers and duties as may be assigned to the department by ordinance.

(Acts 1982, Ch. 658, § 1; Acts 1994, Ch. 215, § 1)

§§ 13.03, 13.04. Reserved.

Editor's note—Sections 13.03 and 13.04, pertaining to the qualifications, powers and duties of the director of public utilities, and derived from Acts 1948, Ch. 116 and Acts 1988, Ch. 269, § 1, were repealed by Acts 1998, Ch. 711.

§ 13.05. Collection of bills.

The collection of unpaid bills may be enforced in the manner now or hereafter prescribed by law or ordinance, and water service may be disconnected for nonpayment of landfill refuse fees.

(Acts 1982, Ch. 658, § 1; Acts 1988, Ch. 269, § 1; Acts 1993, Ch. 613, § 1; Acts 1998, Ch. 711)

§ 13.06. Each utility a separate enterprise.

The water, wastewater, stormwater, gas and electric utilities shall each be conducted as a separate enterprise, provided that nothing herein shall prevent the transfer of employees from one utility to another or the division of the time of any officer or employee between two or more of such utilities. To facilitate accurate analysis of the financial results of the operation of each utility:

(a) The customer service division shall, as directed by ordinance, bill for and collect on behalf of each utility not only the charges due from domestic, commercial and industrial users of its services but similar charges against the city and each department, board, commission, office and agency thereof, including the school board and each other utility. The rates to be charged for street lighting and for electric current furnished to the city and its departments, boards, commissions, offices and agencies, as well as any political subdivision, shall be fixed by the director of public utilities to generate such revenue as shall enable the utility to make a reasonable return on investment and meet retirement schedules and other debt service requirements in accordance with the provisions of any bond ordinance pursuant to which bonds have been issued to finance capital improvements of such utility and to comply with the terms and conditions of any documents securing any such bonds.

(b) Separate budgets shall be prepared for each utility annually at the time and in the manner prescribed in Chapter 6 of this charter, which shall include estimates of revenue and expense for the ensuing fiscal year. After the budget of a utility has been adopted, should it appear that substantial sales of the unit product of the utility can be made in excess of the sales of the unit product contemplated by the budget which were not reasonably foreseen at the time the estimates of revenue and expense were made, additional expenditures may be authorized by the chief administrative officer from the funds of the utility in an amount not exceeding the estimated cost of producing or purchasing additional units of the product of the utility to be sold upon the justification of such expenditure by and recommendation of the director of public utilities. The chief administrative officer shall report to the council as soon as practicable any such additional expenditures authorized by him/her and shall also report any such additional expenditures to the director of finance, who shall adjust the appropriation accounts accordingly. The expenditure of any other funds of any utility shall be authorized only when an additional appropriation thereof is made in accordance with § 6.16 of this charter. The budget estimates of each department of the city shall include items for gas, water, wastewater, stormwater, and electric current to be used by them. An item for street lighting shall be included in the general fund budget and shall be disbursed by the director of finance on the basis of bills rendered by the customer service division.

(c) The accounting system of each utility shall conform to generally accepted principles of public utility accounting and shall be kept on an accrual basis. Expenditures shall be authorized and made in accordance with appropriations made by the council and in accordance with the provisions of Chapters 6, 8 and 13 of this charter. The records of revenues of each utility shall be kept so that the services rendered to each class of customer according to the rate schedules adopted by the council for each utility can be obtained. After the close of each fiscal year there shall be submitted to the chief administrative officer and the council a report as to the operation of each utility containing at least the following financial statements: (1) a comparative balance sheet showing the financial condition of the utility as of the beginning and close of the fiscal year and an analysis of the surplus account showing the factors of change in the account as reflected by the comparative balance sheet; and (2) a comparative profit and loss statement of the last two fiscal years; and a comparative detailed analysis of operating expense for the last two fiscal years according to functional grouping. The expense of operating each utility shall

include: (1) taxes, if any, lawfully accruing during the fiscal year; and (2) except for the stormwater utility, taxes not actually accruing but which would have accrued had the utility not been municipally owned, and such taxes shall be paid annually into the general fund. For the purposes of this chapter all indebtedness of the city incurred on account of each utility shall be considered as the indebtedness of such utility.

(Acts 1954, Ch. 64, § 1; Acts 1982, Ch. 658, § 1; Acts 1988, Ch. 269, § 1; Acts 1993, Ch. 613, § 1; Acts 1994, Ch. 215, § 1; Acts 1998, Ch. 711; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 13.06.1. Payments by utilities for city services.

The amount charged to and to be paid for any city services provided to a city utility by any other department or agency of the city shall be computed upon and limited to the actual cost incurred by such city department or agency in providing such service.

(Acts 1989, Ch. 349, § 1)

§ 13.06.2. Investment of utility funds.

The cash of any utility may be invested for the utility with other city funds, provided, however, that the investment earnings from such cash be credited to the utility. The excess cash not required as working capital for any such utility, for renewal fund transfer, or for other legal obligations of a utility may be utilized for capital projects in accordance with industry standards as determined by and directed by the director of public utilities.

(Acts 1989, Ch. 349, § 1)

§ 13.07. Utility renewal funds.

A renewal fund for each utility shall be established to be known as the "water utility renewal fund", the "wastewater utility renewal fund", the "stormwater utility renewal fund", the "gas utility renewal fund" and the "electric utility renewal fund", respectively. Simultaneously with the introduction of budgets for each city owned and operated utility there shall be introduced renewal fund budgets for each of the utilities utilizing operating cash of the respective utilities for appropriations to finance such budgets. Funds received from the federal and state governments, representing grants in aid of construction, shall be deposited into the respective utility renewal funds. Appropriations may be made by the council from the renewal fund of any utility, on the recommendation of the mayor, only for renewing, rebuilding or extending the plant and distribution system of such utility.

(Acts 1954, Ch. 64, § 1; Acts 1973, Ch. 348, § 1; Acts 1989, Ch. 349, § 1; Acts 1994, Ch. 215, § 1; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 13.07.1. Transfer of utility retained earnings.

Transfers of retained earnings of any utility of the city shall be made only after retention of sufficient funds to meet all bond covenant requirements, working capital requirements, and other legal requirements, and any such transfer shall be limited to 30 percent of any year's net income of such utility with such transfer to be made in the second succeeding fiscal year and provided further that in no case shall cash transfers be made to the general fund if a utility does not have a minimum of 45 days working capital requirements.

(Acts 1954, Ch. 64, § 1; Acts 1960, Ch. 7, § 1; Acts 1973, Ch. 348, § 1; Acts 1989, Ch. 349, § 1)

§ 13.07.2. Amendment of the capital budget adopted pursuant to provisions of § 6.19 of the charter; increase in appropriation for utility purposes.

The capital budget ordinance for a fiscal year adopted by the city council pursuant to § 6.19 of the charter may be amended to allow for an increase in a public utility capital budget within the fiscal year if such additional appropriation is a result of and warranted by a demand for new services, changes in conditions, including emergencies and acts of God occurring after the capital budget goes into effect, necessity for complying with regulatory requirements, or the capital budget needs could not have been reasonably anticipated and estimated at the time of adoption of the capital budget.

(Acts 1989, Ch. 349, § 1)

§ 13.08. Valuation of utilities.

At such times as it shall determine, the council shall cause to be made a valuation of each of the utilities, in accordance with accepted valuation principles, by a competent firm of engineers to be selected by the council on the recommendation of the chief administrative officer, showing in the case of the water utility the proportion of its valuation properly allocable to fire protection.

(Acts 1994, Ch. 215, § 1; Acts 1998, Ch. 711; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 13.09. Changes in rates.

The rates to be charged for the respective services of the water, wastewater, stormwater, and gas utilities and for the sale of any excess of electric current beyond the needs of the city and its departments, boards, commissions and agencies, as well as any political subdivisions, shall be fixed from time to time by the council on the recommendation of the director of public utilities and the mayor. If for any fiscal year any utility other than the stormwater utility shall operate at a net loss as shown by its annual statement of profit and loss, it shall be the duty of the director of public utilities and the mayor to recommend and the council to adopt for that utility a schedule of rates which in its judgment will produce revenue at least equal to expense.

(Acts 1954, Ch. 64, § 1; Acts 1982, Ch. 658, § 10; Acts 1994, Ch. 215; Acts 2006, Ch. 650, § 1; Acts 2006, Ch. 712, § 1)

§ 13.10. No sale or lease of utilities except when approved by referendum.

There shall be no sale or lease of the water, wastewater, gas or electric utilities unless the proposal for such sale or lease shall first be submitted to the qualified voters of the city at a general election and be approved by a majority of all votes cast at such election.

(Acts 1998, Ch. 711)

§ 13.11. Implementation of stormwater utility.

The stormwater utility shall be implemented by ordinance, and shall be effective as of the effective date of that ordinance. Notwithstanding other provisions of this charter, the stormwater utility program may be administered by either the Department of Public Works or the Department of Public Utilities. Stormwater utility charges shall be assessed to all property owners and shall be based upon their contributions to stormwater runoff. Procedures and guidelines may be established to provide for full or partial waivers of charges to any person who develops, redevelops, or retrofits outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading. Federal and state government agencies shall receive a full waiver of stormwater utility charges when the agency owns and provides for maintenance of storm drainage and stormwater control facilities. If stormwater utility charges are not paid when due, interest thereon shall at that time accrue at the rate determined by council, not to exceed any maximum allowed by law. The city may collect charges and interest by action at law or suit in equity, and such unpaid charges and interest shall constitute a lien against the property, of equal stature with liens for unpaid real estate taxes.

(Acts of 1948, Ch. 116, § 1; Acts 1994, Ch. 215, § 1; Acts 2004, Ch. 514, § 1; Acts 2010, Chs. 218, 476)

Chapter 14. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 14, which pertained to the department of public health and derived from:

Acts	Chapter	Section
1948	116	
1958	185	2
1966	109	
1984	163	1
1991	396	1

Chapter 15. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 15, which pertained to the department of social services and derived from Acts 1958, Ch. 185, § 2; and Acts 1985, Ch. 22, § 1.

Chapter 16. Reserved*

***Editor's note—**Acts 1998, Ch. 711 repealed chapter 16, which pertained to the department of parks and recreation and derived from Acts 1948, Ch. 116; Acts 1985, Ch. 185, § 2; and Acts 1986, Ch. 119, § 1.

Chapter 17. Planning, Zoning and Subdivision Control*

***State law reference—**Planning, subdivision of land and zoning, Code of Virginia, § 15.2-2200 et seq.

§ 17.01. Power to adopt master plan.

In addition to the powers granted elsewhere in this charter the council shall have the power to adopt by ordinance a master plan for the physical development of the city to promote health, safety, morals, comfort, prosperity and general welfare. The master plan may include but shall not be limited to the following:

(a) The general location, character and extent of all streets, highways, superhighways, freeways, avenues, boulevards, roads, lanes, alleys, walks, walkways, parks, parkways, squares, playfields, playgrounds, recreational facilities, stadia, arenas, swimming pools, waterways, harbors, water fronts, landings, wharves, docks, terminals, canals, airports and other public places or ways, and the removal, relocation, widening, narrowing, vacating, abandonment, change or use or extension thereof.

(b) The general location, character and extent of all public buildings, schools and other public property and of utilities whether publicly or privately owned, off-street parking facilities, and the removal, relocation, vacating, abandonment, change of use, alteration or extension thereof.

(c) The general location, character and extent of slum clearance, housing and neighborhood rehabilitation projects, including the demolition, repair or vacation of substandard, unsafe or unsanitary buildings.

(d) A general plan for the control and routing of railways, streetcar lines, bus lines and all other vehicular traffic.

(e) The general location, character and extent of areas beyond the corporate limits of the city to be annexed thereto.

§ 17.02. City planning commission, generally.

There shall be a city planning commission which shall consist of nine members. One member shall be a member of the council who shall be appointed by the council for a term coincident with his/her term in the council; one member shall be a member of the board of zoning appeals appointed by the board of zoning appeals for a term coincident with his/her term on such board; one member shall be the chief administrative officer or an officer or employee of the city designated from time to time by him/her; six citizen members shall be qualified voters of the city who hold no office of profit under the city government, appointed for terms of three years, one of whom shall be appointed by the mayor, five of whom shall be appointed by the council. Vacancies shall be filled by the authority making the appointment, for the unexpired portion of the term. Members of the city planning commission, other than the member of council appointed to the commission and the chief administrative officer, or such officer or employee of the city as the chief administrative officer may designate to serve on the commission, shall be entitled to receive such compensation as may be fixed from time to time by ordinance adopted by the council.

(Acts 1968, Ch. 644, § 1; Acts 1976, Ch. 633, § 1; Acts 1985, Ch. 22, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1; Acts 2005, Ch. 844, § 1)

§ 17.03. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed § 17.03, which pertained to the election and terms of Office of the City Planning Commission, its meetings, rules, records, etc., and derived from Acts 1958, Ch. 185, § 2; Acts 1968, Ch. 644, § 1; Acts 1972, Ch. 336, § 1; Acts 1993, Ch. 613, § 1.

§ 17.04. Duty to adopt master plan.

It shall be the duty of the commission to make and adopt a master plan which with accompanying maps, plats, charts and descriptive matter shall show the commission's recommendations for the development of the territory covered by the plan. In the preparation of such plan the commission shall make careful and comprehensive surveys and studies of existing conditions and future growth. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will in accordance with existing and future needs best promote health, safety, morals, comfort, prosperity and general welfare, as well as efficiency and economy in the process of development.

§ 17.05. Duties with respect to historical landmarks, works of art, harbors, etc.

It shall be the further duty and function of the commission to preserve historical landmarks and to control the design and location of statuary and other works of art which are or may become the property of the city, and the removal, relocation and alteration of any such work; and to consider and suggest the design of harbors, bridges, viaducts, airports, stadia, arenas, swimming pools, street fixtures and other public structures and appurtenances.

§ 17.06. Adoption of master plan by commission and approval by council.

The commission may adopt the master plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding to major geographical sections or geographical or topographical divisions of the city or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition, the commission shall hold at least one public hearing thereon. Notice of the time and place of such hearing shall be given in accordance with general law. The adoption of the plan or of any such part, amendment, extension or addition shall be by resolution of the commission carried by the affirmative vote of not less than a majority of the entire membership of the commission. The resolution shall refer expressly to the maps and descriptive matter and other matter intended by the commission to form the whole or part of the plan adopted, which resolution shall be signed by the chairman of the commission and attested by its secretary. An attested copy of the resolution, accompanied by a copy of so much of the plan in whole or in part as was adopted thereby, and each amendment, alteration, extension or addition thereto adopted thereby shall be certified to the council, and at least one public hearing shall be held thereon in accordance with general law. Neither the master plan nor any part, amendment, extension or addition thereto shall become effective until the action of the commission with respect thereto set out in the resolution shall have been approved by the council by ordinance or resolution. Upon the approval of the action of the commission by the council, an attested copy of the resolution adopted by the commission accompanied by a copy of so much of the plan in whole or in part as was adopted thereby, and each amendment, alteration, extension or addition thereto thereby adopted, together with the ordinance or resolution adopted by the council shall be certified to the clerk of the Circuit Court, Division I and Division II, of the city, who shall file the same in his/her respective offices, and shall index the same in the deed index book in the name of the city and under the title: master plan of the city.

(Acts 1958, Ch. 185, § 2; Acts 1975, Ch. 112, § 1; Acts 1998, Ch. 711)

State law reference—Comprehensive plan, Code of Virginia, § 15.2-2223 et seq.

§ 17.07. Effect of adoption and approval of master plan.

Whenever the commission shall have adopted a master plan for the city or one or more parts thereof, geographical, topographical or functional, and the master plan or such part or parts thereof and any amendment or extension of the plan or part thereof or addition thereto shall have been approved by the council and it has been certified and filed as provided in the preceding section, then and thereafter no street, square, park or other public way, ground, open space, public building or structure, shall be constructed or authorized in the city or in the planned section or division thereof until and unless the general location, character and extent thereof has been submitted to and approved by the commission; and no public utility, whether publicly or privately owned, shall be constructed or authorized in the city or in the planned section or division thereof until and unless its general location but not its character and extent, has been submitted to and approved by the commission, but such submission and approval shall not be necessary in the case of pipes or conduits in any existing street or proposed street, square, park or other public way, ground or open space, the location of which has been approved by the commission; and no ordinance giving effect to or amending the comprehensive zoning plan as provided in § 17.10 shall be adopted until it has been submitted to and approved by the commission. In case of disapproval in any of the instances enumerated above

the commission shall communicate its reason to the council which shall have the power to overrule such action by a recorded vote of not less than two-thirds of its entire membership. The failure of the commission to act within 60 days from the date of the official submission to it shall be deemed approval. The widening, extension, narrowing, enlargement, vacation or change in the use of streets and other public ways, grounds and places within the city as well as the acquisition by the city of any land within or without the city for public purposes or the sale of any land then held by the city shall be subject to similar approval and in case the same is disapproved such disapproval may be similarly overruled. The foregoing provisions of this section shall not be deemed to apply to the pavement, repavement, reconstruction, improvement, drainage or other work in or upon any existing street or other existing public way.

(Acts 1958, Ch. 185, § 2)

State law reference—Comprehensive plan, Code of Virginia, § 15.2-2223 et seq.

§ 17.08. Reserved.

Editor's note—Section 17.08, pertaining to Planning Commission action on capital budget, derived from Acts 1948, Ch. 116, and Acts 1972, Ch. 336, § 1, and was repealed by Acts 1998, Ch. 711.

§ 17.09. Further powers and duties of planning commission.

The commission shall have power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or any report relating thereto, and may employ such other means of publicity and education as it may determine. The commission shall consult and advise with public officials and agencies, public utility companies, civic, educational, professional or other organizations, and with citizens, with relation to the protection or carrying out of the plan. All public officials shall upon request furnish to the commission within a reasonable time such available information as it may require for its work. The commission, its members, officers and employees in the performance of their duties may enter upon any land in the city and make examinations and surveys and place and maintain necessary monuments and markers thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its function, promote planning and carry out the purposes of this charter. The commission shall make an annual report to the council concerning its activities.

State law reference—Comprehensive plan, Code of Virginia, § 15.2-2223 et seq.

§ 17.10. Zoning powers.

In addition to the powers granted elsewhere in this charter the council shall have the power to adopt by ordinance a comprehensive zoning plan designed to lessen congestion in streets, secure safety from fire, panic and other danger, promote health, sanitation and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate public and private transportation and the supplying of public utility services and sewage disposal, and facilitate provision for schools, parks, playgrounds, and other improvements and requirements. The comprehensive zoning plan shall include the division of the city into districts with such boundaries as the council deems necessary to carry out the purposes of this charter and shall provide for the regulation and restriction of the use of land, buildings and structures in the respective districts and may include but shall not be limited to the following:

(a) It may permit specified uses of land, buildings and structures in the districts and prohibit all other uses.

(b) It may restrict the height, area and bulk of buildings and structures in the districts.

(c) It may establish setback building lines and prescribe the area of land that may be used as front, rear and side yards and courts and open spaces.

(d) It may restrict the portion of the area of lots that may be occupied by buildings and structures.

(e) It may prescribe the area of lots and the space in buildings that may be occupied by families.

(f) It may require that spaces and facilities deemed adequate by the council shall be provided on lots for parking of vehicles in conjunction with permitted uses of land and that spaces and facilities deemed adequate by the council shall be provided on lots for off-street loading or unloading of vehicles.

(g) It may permit the use and development of land not less than ten acres in extent in a manner that does not conform in all respects with the regulations and restrictions prescribed for the district or districts in which

such land is situated; provided, that such use shall be approved by the city planning commission and the council.

(h) It may provide that land, buildings and structures and the uses thereof which do not conform to the regulations and restrictions prescribed for the district in which they are situated may be continued so long as the then existing or more restricted use continues and so long as the buildings or structures are maintained in their then structural condition; and may require that such buildings or structures and the use thereof shall conform to the regulations and restrictions prescribed for the district or districts in which they are situated whenever they are enlarged, extended, reconstructed or structurally altered; and may require that such buildings or structures and the use thereof shall conform to the regulations and restrictions prescribed for the district or districts in which they are situated, in any event within a reasonable period of time to be specified in the ordinance.

State law reference—Zoning, Code of Virginia, § 15.2-2280 et seq.

§ 17.11. Uniformity of regulations within a district; special use permits.

(a) The regulations and restrictions shall be uniform and shall apply equally to all land, buildings, and structures and to the use and to each class or kind thereof throughout each district; however, the regulations and restrictions applicable in one district may differ from those provided for other districts.

(a1) The council may, by ordinance adopted after holding one or more public hearings concerning same, establish design overlay districts, providing for such design overlay districts, a design review process applicable to exterior changes within view from public rights-of-way in order to protect developed areas of the city which are characterized by uniqueness of established neighborhood character, architectural coherence and harmony, or vulnerability to deterioration, and council may assess a reasonable fee, not exceeding the actual cost of the review process, for a determination if proposed new construction, alterations, rehabilitation, or demolition conforms to general guidelines for a particular design overlay district established by the planning commission and urban design committee after holding a public hearing.

(b) The council shall have the power to authorize by ordinance adopted by not less than six affirmative votes the use of land, buildings, and structures in a district that does not conform to the regulations and restrictions prescribed for that district and to authorize the issuance of special use permits therefor, whenever it is made to appear that such special use will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air. No such special use permit shall be adopted until (1) the city planning commission has conducted a public hearing to investigate the circumstances and conditions upon which the council is empowered to authorize such use and until the commission has reported to the council the results of such public hearing and investigation and its recommendations with respect thereto, and (2) the council has conducted a public hearing on an ordinance to authorize such special use permit at which the person in interest and all other persons shall have an opportunity to be heard. Notice of the time and place of such public hearings shall be given in accordance with general law. The council shall have the power to require greater notice as it may deem expedient. The city planning commission may recommend and the council may impose such conditions upon the use of the land, buildings and structures as will, in its opinion, protect the community and area involved and the public from adverse effects and detriments that may result therefrom.

(Acts 1960, Ch. 7, § 1; Acts 1968, Ch. 644, § 1; Acts 1987, Ch. 230, § 1; Acts 1998, Ch. 711)

State law reference—Zoning, Code of Virginia, § 15.2-2280 et seq.

§ 17.12. Considerations to be observed in adoption and alteration of zoning regulations.

The regulations and restrictions shall be enacted with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of land, buildings and structures and encouraging the most appropriate use thereof throughout the city. Upon the enactment of the ordinance dividing the city into districts and regulating and restricting the use of land, buildings

and structures therein in accordance with a comprehensive zoning plan no land, building or structure shall be changed from one district to another unless the change is in accord with the interest and purpose of this section and will not be contrary to the comprehensive zoning plan and the enumerated factors upon which it is based and the regulations and restrictions applicable to the districts involved in the change.

(Acts 1950, Ch. 251, § 1; Acts 1960, Ch. 7, § 1)

State law reference—Zoning, Code of Virginia, § 15.2-2280 et seq.

§ 17.13. Duties of planning commission with relation to zoning.

It shall be the duty of the city planning commission to prepare and submit to the council a comprehensive zoning plan as referred to in § 17.10 and from time to time prepare and submit such changes in or revisions of the said plan as changing conditions may make necessary.

State law reference—Zoning, Code of Virginia, § 15.2-2280 et seq.

§ 17.14. Adoption and amendment of zoning regulations and restrictions and establishment of district boundaries.

Subject to the other provisions of this chapter and general law, the council shall have power by ordinance to adopt the regulations and restrictions hereinbefore described and establish the boundaries of the districts in which they shall apply, provide for their enforcement, and from time to time amend, supplement or repeal the same. The council shall also have authority to provide for the collection of fees to cover costs involved in the consideration of any request for amendment, supplement or repeal of any such regulation, restriction or establishment of boundaries, to be paid to the department of planning and community development by the applicant upon filing such request. No such regulation, restriction or establishment of boundaries shall be adopted until:

(a) The city planning commission has conducted a public hearing to investigate the circumstances and conditions upon which the council is empowered to authorize such regulation, restriction or establishment of boundaries, and until the commission has reported to the council the results of such public hearing and investigation and its recommendations with respect thereto; and

(b) The council has conducted a public hearing on an ordinance to authorize such regulation, restriction or establishment of boundaries at which the person in interest and other persons shall have an opportunity to be heard.

Notice of the time and place of such public hearings shall be given in accordance with general law.

The procedures set forth in this section shall also apply to the adoption, amendment and repeal of historic district boundaries. All historic districts previously adopted by city council, except for the Church Hill North district adopted by Ordinance No. 90-197-194 and repealed by Ordinance No. 90-242-314, shall remain in full force and effect, shall be deemed to have been in continuous existence, and shall not henceforth be declared invalid by reason of a failure to follow the procedures set forth herein applicable to zoning districts.

(Acts 1984, Ch. 163, § 1; Acts 1992, Ch. 850, § 1; Acts 1998, Ch. 711)

State law reference—Zoning, Code of Virginia, § 15.2-2280 et seq.

§ 17.15. Effect of protest by 20 percent of the owners of property.

If a protest is filed with the city clerk against such amendment, supplement or repeal, signed and acknowledged before a person authorized to administer oaths, by the owners of 20 percent or more of the total area of the lots included in such proposed change or of the total area of the lots outside of the proposed change any point in which is within 150 feet of the boundary of such area, the council shall not adopt the ordinance making such amendment, supplement or repeal, by less than seven affirmative votes.

State law reference—Zoning, Code of Virginia, § 15.2-2280 et seq.

§ 17.16. Board of zoning appeals; composition.

(a) There shall be a board of zoning appeals which shall consist of five regular members and two alternates. They shall be qualified voters of the city, shall hold no office of profit under the city government and shall be appointed by the chief judge of the Circuit Court of the City of Richmond for terms of four years. Vacancies shall

be filled by the chief judge of such court for the unexpired portion of the term. A regular or alternate member may be removed by the chief judge of the said court for neglect of duty or malfeasance in office, upon written charges and after public hearing. Members of the board of appeals shall serve without compensation.

(b) The city may by ordinance create a separate division of the board which shall be empowered only to hear appeals concerning interpretations of sections of the zoning ordinance dealing expressly with preservation of the Chesapeake Bay. This division shall consist of five regular members and two alternates appointed as provided in paragraph (a) of this section and subject to the same conditions of office. This division shall have only the powers set forth in § 17.20(a). In all other respects, it shall be governed by those sections of this charter and of law which are generally applicable to the Board of Zoning Appeals.

(Acts 1960, Ch. 7, § 1; Acts 1975, Ch. 112, § 1; Acts 1992, Ch. 850, § 1)

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§§ 17.17, 17.18. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 17.17 and 17.18, which pertained to the organization and meetings, etc., of the board of zoning appeals, and which derived from Acts 1948, Ch. 116 and Acts 1960, Ch. 7, § 1.

§ 17.19. Appeals to board of zoning appeals.

Appeals to the board may be taken by any person aggrieved, or by any officer, department, board, commission or agency of the city affected, by any decision of the administrative officer designated by the council to administer and enforce the ordinance dividing the city into districts and regulating and restricting the use of land, buildings and structures therein. Appeals shall be taken within such reasonable time as shall be prescribed by the board by general rule, by filing with the said administrative officer and with the board a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the administrative officer from whose decision the appeal is taken certifies to the board that by reason of the facts stated in the certificate a stay would in his/her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application and on notice to the administrative officer and on due cause shown.

The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest and decide the issue within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney and shall be given an opportunity to be heard. The board may prescribe a fee to be paid whenever an appeal is taken which shall be paid into the city treasury.

(Acts 1998, Ch. 711)

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§ 17.20. Powers of board of zoning appeals.

The board shall have the following powers and it shall be its duty:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by the administrative officer in the administration and enforcement of the provisions of the ordinance.

(b) To grant variations in the regulations when a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness or shape of a specific piece of property at the time of the effective date of the ordinance or where by reason of the exceptional topographical conditions or other extraordinary or exceptional situation the strict application of the terms of the ordinance actually prohibit or unreasonably restrict the use of the property, or where the board is satisfied, upon the evidence heard by it, the granting of such variations will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the owner, provided, however, that all variations granted shall be in harmony with the intended spirit and purpose of this chapter and the ordinance.

(c) To permit, when reasonably necessary in the public interest, the use of land, or the construction or use

of buildings or structures, in any district in which they are prohibited by the ordinance, by any agency of the city, county or Commonwealth or the United States, provided such construction or use shall adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise affect public safety.

(d) To permit the following exceptions to the district regulations and restrictions, provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas:

(1) Use of land or erection or use of a building or structure by a public service corporation for public utility purposes exclusively which the board finds to be reasonably necessary for the public convenience and welfare.

(2) Use of land or construction or use of buildings and structures in any district in which they are prohibited by the ordinance, for cemetery purposes, airports or landing fields, greenhouses and nurseries and the extraction of raw materials from land, such as rock, gravel, sand and similar products.

(3) Use of land in dwelling districts immediately adjoining or separated from business, commercial or industrial districts by alleys, or widths to be specified in the ordinance, for parking of vehicles of customers of business, commercial or industrial establishments, provided such use shall not extend more than the distance specified in the ordinance from the business, commercial or industrial district.

(4) Use of buildings for dwelling purposes in districts specified in the ordinance for use for other purposes, where it can be shown that conditions in the specified districts are not detrimental to the health, safety, or welfare of the inhabitants of such buildings and on condition that the buildings will be removed within a time specified in the ordinance.

(5) Reconstruction of buildings or structures that do not conform to the comprehensive zoning plan and regulations and restrictions prescribed for the district in which they are located, which have been damaged by explosion, fire, act of God or the public enemy, to the extent of more than 60 percent of their assessed taxable value, when the board finds some compelling public necessity for a continuance of the use and such continuance is not primarily to continue a monopoly, provided that nothing herein shall relieve the owner of any such building or structure from obtaining the approval of such reconstruction by the council or any department or officer of the city when such approval is required by any law or ordinance.

(e) To modify the interpretation and application of the provisions of the ordinance where the street layout actually on the ground varies from the street layout as shown on the map fixing the districts and their boundaries adopted with and as a part of the ordinance.

(Acts 1954, Ch. 64, § 1; Acts 1962, Ch. 65, § 1; Acts 1981, Ch. 199, § 1; Acts 1998, Ch. 711)

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§ 17.21. Form and scope of decisions by board of zoning appeals.

In exercising the powers conferred upon it the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and to that end shall have all the powers of the administrative officer charged by the ordinance with enforcement. The concurring affirmative vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant in any matter of which it has jurisdiction. The board shall act by formal resolution which shall set forth the reason for its decision and the vote of each member participating therein which shall be spread upon

its records and shall be open to public inspection. The board may, upon the affirmative vote of three members, reconsider any decision made and, upon such consideration, render a decision by formal resolution. Every decision of the board shall be based upon a finding of fact based on sworn testimony which finding of fact shall be reduced to writing and preserved among its records.

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§ 17.22. Appeals from boards.

Any person, firm or corporation, jointly or severally aggrieved or in fact affected by any decision of the board of zoning appeals, or any officer, department, board or agency of the city government charged with the enforcement of any order, requirement or decision of said board, may appeal from such decision by filing a petition in the Circuit Court of the City of Richmond, Division I, verified by affidavit, setting forth the alleged illegality of the action of the board and the grounds thereof. The petition shall be filed within 30 days from the date of the decision of the board. No appeal from the decision of the board shall be allowed in any case involving the same petitioner, principles, property and conditions previously passed upon by such court.

(Acts 1954, Ch. 73, § 1; Acts 1975, Ch. 112, § 1; Acts 1976, Ch. 633, § 1)

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§ 17.23. Procedure on appeal.

Upon filing of the petition the court may cause a writ of certiorari to issue directed to the board, ordering it to produce within the time prescribed by the court, not less than ten days, the record of its action and documents considered by it in making the decision appealed from, which writ shall be served upon any member of the board. The issuance of the writ shall not stay proceedings upon the decision appealed from but the court may, on application, notice to the board and due cause shown, issue a restraining order. The board shall not be required to produce the original record and documents but it shall be sufficient to produce certified or sworn copies thereof or of such portions thereof as may be required by the writ. With the record and documents the board may concisely set forth in writing such other facts as may be pertinent and material to show the grounds of the decision appealed from, verified by affidavit.

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§ 17.24. Powers and duties of the court.

The court shall review the record, documents and other matters produced by the board pursuant to the issuance of the writ and may reverse or modify the decision reviewed, in whole or in part, when it is satisfied that the decision of the board is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion. Unless it is made to appear that the decision is contrary to law or is arbitrary and constitutes an abuse of discretion the court shall affirm the decision. If the court finds that the testimony of witnesses is necessary for a proper disposition of the matter it may hear evidence.

State law reference—Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

§ 17.25. Proceedings against violators of zoning ordinance.

Whenever any building or structure is erected, constructed, reconstructed, altered, repaired or converted, or whenever any land, building or structure is used in violation of any ordinance adopted in accordance with § 17.14, the city may institute and prosecute appropriate action or proceedings to prevent such unlawful act and to restrain, correct or abate such violation or to prevent any unlawful act, conduct or use of such property.

§ 17.26. Penalties for violation of zoning ordinance.

The council may in such ordinance provide that fines and jail sentences, either or both, shall be imposed for violations of the ordinance by owners of land, buildings or structures, their agents having possession or control of such property, lessees, tenants, architects, builders, contractors or any other persons, firm or corporations who take part in or assist in any such violations or who maintain any land, building or structure in which such violations exist, which penalties shall not exceed those prescribed in § 2.06 of this charter.

State law reference—Penalty for violation, Code of Virginia, § 15.2-2286(a)(5).

§§ 17.27—17.29. Reserved.

Editor's note—Sections 17.27—17.29 were repealed by Acts 1998, Ch. 711. Said sections derived from Acts 1948, Ch. 116; Acts 1975, Ch. 112, § 1; Acts 1982, Ch. 658, § 1; Acts 1994, Ch. 215, § 1 and pertained to subdivision regulations generally, hearings on subdivision ordinances, and adoption and recordation of subdivision regulations and restrictions applicable within the City limits.

§ 17.30. Reserved.

Editor's note—Section 3 of Acts 1994, Ch. 215 repealed § 17.30 which pertained to adoption of subdivision regulations applicable beyond City limits and derived from Acts 1948, Ch. 116.

§§ 17.31—17.35. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed provisions formerly set out as §§ 17.31—17.35. These provisions derived from:

Acts	Chapter	Section
1975	112	1
1976	633	1
1981	199	1
1982	658	1
1994	215	1

§ 17.36. Use of streets for five years; dedication.

Whenever any piece, parcel or strip of land shall have been opened to and used by the public as a street, alley, lane or other public place or part thereof for the period of five years, the same shall thereby become a street, alley, lane, public place or part thereof for all purposes and the city shall have the same authority and jurisdiction over and right and interest therein that it has by law over the streets, alleys, lanes and public places laid out by it and thereafter no action shall be brought to recover such piece, parcel or strip of land so opened to and used by the public as aforesaid. Any street, alley, lane or other public place reserved in the division or subdivision into lots by a plat or plan of record shall be deemed and held to be dedicated to the public use and the council shall have authority upon the petition of any person or corporation interested therein to open such street, alley, lane or other public place or any portion of the same. No agreement between, or release of interest by, persons or corporations owning the lands immediately contiguous to any such street, alley, lane or other public place, whether the same has been opened or used by the public or not, shall avail or operate to abolish such street, alley, lane or other public place or to divest the interest of the public therein or the authority of the council over the same.

(Acts 1994, Ch. 215, § 1)

§ 17.37. Present master plan and comprehensive zoning plan.

The master plan and the comprehensive zoning plan as heretofore adopted, approved and filed, with all amendments, additions and extensions thereto, in force and effect at the effective date of this charter, are hereby validated and confirmed as if the same had been prepared, adopted, approved and filed in accordance with the provisions of this chapter. Every amendment or addition thereto or extension thereof and every other master plan or comprehensive zoning ordinance henceforth adopted shall be in accordance with the provisions of this chapter. Where existing ordinances are at variance with the provisions of this chapter they shall be deemed to be amended in accordance with the provisions of this chapter.

§§ 17.37.1—17.37.4. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 17.37.1—17.37.4, which pertained to the department of planning and community development and which derived from Acts 1968, Ch. 644, § 1; and Acts 1987, Ch. 230, § 1.

Chapter 18. Acquisition of Property for Public Purposes

§ 18.01. Acquisition, ownership and use of property.

The city shall have, for the purpose of carrying out any of its powers and duties, power to acquire by gift, bequest, purchase or lease, and to own and make use of, within and without the city, lands, buildings, other structures and personal property, including any interest, right, easement or estate therein, and in acquiring such property to exercise, within and without the city, the right of eminent domain as hereinafter provided in this chapter.

§ 18.02. Eminent domain.

The city is hereby authorized to acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein, of any person or corporation, whenever in the opinion of the council a public necessity exists therefor, which shall be expressed in the resolution or ordinance directing such acquisition, whether or not any corporation owning the same be authorized to exercise the power of eminent domain or whether or not such lands, buildings, structures or personal property or interest, right, easement or estate has already been devoted to a public use, and whenever the city cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the Commonwealth and cannot with reasonable diligence be found in the Commonwealth or is unknown.

Such proceedings may be instituted in the Circuit Court of the City of Richmond, Divisions I or II, if the subject to be acquired is located within the city, or, if it is not located within the city, in the circuit court of the county in which it is located. If the subject is situated partly within the city and partly within any county the circuit court of such county shall have concurrent jurisdiction in such condemnation proceedings with the circuit court of the city. The judge or the court exercising such concurrent jurisdiction shall appoint five disinterested freeholders any or all of whom reside either in the county or city, any three of whom may act as commissioners, as provided by law.

(Acts 1975, Ch. 112, § 1)

§ 18.03. Alternative procedures in condemnation.

The city may, in exercising the right of eminent domain conferred by the preceding section, make use of the procedure prescribed by the general law as modified by said section or may elect to proceed as hereinafter provided. In the latter event the resolution or ordinance directing acquisition of any property, as set forth in the preceding section, shall provide therein in a lump sum the total funds necessary to compensate the owners thereof for such property to be acquired or damaged. Upon the adoption of such resolution or ordinance the city may file a petition in the clerk's office of a court enumerated in the preceding section, having jurisdiction of the subject, which shall be signed by the chief administrative officer and set forth the interest or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage. There shall also be filed with the petition a plat of a survey of the property with a profile showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners of the property, if known, copies of which shall be served on such owners or tenants of the freehold of such property, if known. If the owner or tenant of the freehold be unknown or a nonresident of the Commonwealth or cannot with reasonable diligence be found in the Commonwealth, or if the residence of the owner or tenant be unknown, he/she may be proceeded against by order of publication which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse. The publication shall in all other respects conform to §§ 8.01-316, 8.01-317 and 8.01-319 of the Code of Virginia [Code of Virginia, §§ 8.01-316, 8.01-317 and 8.01-319].

Upon the filing of said petition and the deposit of the funds provided by the council for the purpose in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit therefor the interest or estate

of the owner of such property shall terminate and the title to such property or the interest or estate to be taken in such property shall be vested absolutely in the city and such owner shall have such interest or estate in the funds so deposited as he/she had in the property taken or damaged and all liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred to such funds and the city shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works or improvements. The clerk of the court in which such proceeding is instituted shall make and certify a copy of the petition, exhibits filed therewith, and orders, and deliver or transmit the same to the clerk of the court in which deeds are admitted to record, who shall record the same in his/her deed book and index them in the name of the person or persons who had the property before and in the name of the city, for which he/she shall receive the same fees prescribed for recording a deed, which shall be paid by the city.

If the city and the owner of property so taken or damaged agree upon compensation therefor, upon filing such agreement in writing in the clerk's office of such court, the court shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable the court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given to the making of such inquiries by such special commissioner.

If the city and the owner cannot agree upon the compensation for the property taken or damaged, if any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either the city or the owner, the court shall appoint commissioners provided for in §§ 25.1-220 and 25.1-226-25.1-230 of the Code of Virginia [Code of Virginia, §§ 25.1-220 and 25.1-226--25.1-230] or as provided for in § 18.02, and all proceedings thereafter shall be had as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 of the Code of Virginia [Code of Virginia, § 25.1-200 et seq.] insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding section, and the court shall order the deposit in bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the city of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the city subsequent to its taking nor the value thereof nor the enhancement of the value of said property by said improvements in making their award.

(Acts 1968, Ch. 644, § 1; Acts 1998, Ch. 711; Acts 2004, Ch. 877, § 1; Acts 2004, Ch. 898, § 1)

Editor's note—Acts 2006, Ch. 586, § 2 repealed Code of Virginia, §§ 25.1-226 and 25.1-227, and Acts 2010, Ch. 835 added Code of Virginia, §§ 25.1-227.1 and 25.1-227.2.

§ 18.04. Enhancement in value when considered.

In all cases under the provisions of §[§] 18.02 and 18.03, the enhancement, if any, in value of the remaining property of the owner by reason of the construction or improvement contemplated or made by the city, shall be offset against the damage, if any, resulting to such remaining property of such owner by reason of such construction or improvement; provided, such enhancement in value shall not be offset against the value of the property taken, and provided further, that if such enhancement in value shall exceed the damage there shall be no recovery over against the owner for such excess.

§ 18.05. Unclaimed funds in condemnation cases.

Whenever any money shall have remained for five years in the custody or under the control of any of the courts enumerated in § 18.02, in any condemnation proceeding instituted therein by the city, without any claim having been asserted thereto such court shall direct the same to be paid into the treasury of the city, and a proper receipt for the payment taken and filed among the records of the proceeding. The director of finance shall, in a book provided for the purpose, keep an account of all money thus paid into the city treasury, showing the amount thereof, when, by whom, and under what order it was paid, and the name of the court and, as far as practicable, a description of the suit or proceeding in which the order was made and, as far as known, the names of the parties entitled to said funds. Money thus paid into the treasury of the city shall be paid out on the order of the court having jurisdiction of the proceeding, to any person entitled thereto who had not asserted a claim therefor in the proceeding in which it was held, upon satisfactory proof that he/she is entitled to such money. If such claim is established the net amount thereof, after deducting costs and other proper charges, shall be paid to the claimant out of the treasury of the city

on the warrant of the director of finance. No claim to such money shall be asserted after ten years from the time when such court obtained control thereof; provided, however, if the person having such claim was an infant, insane, or imprisoned at the time the claim might have been presented or asserted by such person, claim to such money may be asserted within five years after the removal of such disability.

(Acts 1970, Ch. 226, § 1; Acts 1998, Ch. 711)

Chapter 19. Reserved*

***Editor's note—**Chapter 19 was entitled "Municipal Courts" and consisted of Sections 19.01 through 19.22, all of which have been repealed as follows:

(1) §§ 19.01-19.12 by Acts 1975, Ch. 112, § 1.

(2) § 19.13 by Acts 1970, Ch. 226.

(3) §§ 19.13.1-19.22 by Acts 1975, Ch. 112, § 1.

Chapter 20. Miscellaneous Provisions

§ 20.01. School board.

The school board shall consist of nine trustees. One trustee shall be elected from each of the nine council districts and shall be a qualified voter of that district.

The time of election and terms of members of the school board shall be the same as the time of election and terms of the members of the council.

Trustees shall take office July 1 following their election.

Except as provided in this charter the school board shall have all the powers and duties relating to the management and control of the public schools of the city provided by the general laws of the Commonwealth. None of the provisions of this charter shall be interpreted to refer to or include the school board unless the intention so to do is expressly stated or is clearly apparent from the context.

(Acts 1973, Ch. 348, § 1; Acts 1976, Ch. 633, § 1; Acts 1994, Ch. 215, § 1; Acts 1995, Ch. 165, § 1)

Editor's note—Pursuant to Code of Virginia, § 24.2-222.1 and Ordinance No. 2001-208-202, adopted June 25, 2001, the City Council changed the election of council members to the first Tuesday in November beginning with November 2002 and every second year thereafter.

State law reference—School board, Va. Const. art. VIII, § 7, Code of Virginia, § 22.1-28 et seq.

§§ 20.02—20.05. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 20.02—20.05, which pertained to the Richmond Public Library Board, the transfer of books and papers, surety bonds, and rules and regulations to be filed, and which derived from Acts 1968, Ch. 116; Acts 1978, Ch. 78, § 1; Acts 1993, Ch. 613, § 1; Acts 1995, Ch. 165, § 1.

§ 20.06. Reserved.

Editor's note—Section 2 of Acts 1992, Ch. 850, repealed former § 20.06, conflicts of interest, which derived from Acts 1948, Ch. 116, and Acts 1950, Ch. 251, § 1.

§§ 20.07—20.09. Reserved.

Editor's note—Acts 1998, Ch. 711 repealed §§ 20.07—20.09, which pertained to reprinting of Charter after amendment, officers to hold over until successors are appointed and qualified, and the ministerial officer for the Circuit County, Division II, and which derived from Acts 1948, Ch. 116, and Acts 1975, Ch. 112, § 1.

§ 20.10. Courtrooms for courts of record and office space for constitutional officers.

It shall be the duty of the city to provide suitable courtrooms for the courts of record of the city and suitable offices for the city treasurer and attorney for the Commonwealth.

(Acts 1978, Ch. 78, § 1; Acts 1981, Ch. 199, § 1; Acts 1998, Ch. 711)

§ 20.11. Posting of bonds by city unnecessary.

Whenever the general law requires the posting of a bond, with or without surety, as a condition precedent to the exercise of any right, the city, without giving such bond, may exercise such right, provided all other conditions precedent are complied with, and no officer shall fail or refuse to act because the city has not filed or executed the bond that might otherwise be required, and the city shall be bound to the same extent that it would have been bound had the bond been given. This exemption from the requirement of posting a bond shall also apply in cases involving a city employee and to whom liability coverage has been granted by the city.

(Acts 1993, Ch. 613, § 1; Acts 1998, Ch. 711)

§ 20.12. Code references.

All references in this charter to the Code of Virginia are to such code as amended to May 1, 1947.

Editor's note—The references are now translated to the Code of Virginia, as amended through 2014.

§ 20.13. Severability.

If any provisions of this charter or the applicability thereof to any person or circumstance is held invalid, the remainder of this charter and the applicability thereof and of such provisions to other persons or circumstances shall not be affected thereby.

§ 20.14. Meaning of "at the effective date of this charter."

As used in this charter, the term "at the effective date of this charter" shall be interpreted to refer to a period immediately preceding the taking effect thereof.

Chapter 21. Transitional Provisions

§ 21.01. Acts repealed.

There are hereby repealed: The act of the General Assembly of Virginia, approved March 24, 1926, entitled "An Act to Provide a New Charter for the City of Richmond," constituting Chapter 318 of the Acts of the Assembly of 1926, and all acts amendatory thereof; § 5931 of the Code of Virginia [Code of Virginia, § 5931]; Chapter 90 of the Acts of the Assembly of 1926; and all other acts and parts of acts in conflict with this charter.

Editor's note—Section 5931 of the 1919 Code of Virginia was omitted from the 1950 Code of Virginia.

§ 21.02. Present ordinances, rules, etc., continued in effect.

All ordinances of the city and all rules, regulations and orders legally made by any department, board, commission or officer of the city, in force at the effective date of this charter, insofar as they or any portion thereof are not inconsistent therewith, shall remain in force until amended or repealed in accordance with the provisions of this charter.

§§ 21.03—21.07. Reserved.

Editor's note—Sections 21.03—21.07 were repealed by Acts 1974, Ch. 19.

PART II

CITY CODE

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of the City of Richmond, Virginia, 2020" and may be so cited. Such ordinances may also be cited "Richmond Code."

(Code 1993, § 1-1; Code 2004, § 1-1; Code 2015, § 1-1)

Charter reference—Codification, § 4.13.

State law reference—Authority of City to codify and recodify its ordinances, Code of Virginia, § 15.2-1433.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances and resolutions of the City, the following rules and definitions shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

Charter. The term "Charter" means the Richmond Charter of 1948, as amended from time to time.

City. The term "City" shall be construed as if the phrase "of Richmond" follows it.

Code. Whenever the terms "Code" and "this Code" are used without further qualification, they mean the Code of the City of Richmond, Virginia, 2020, as designated in Section 1-1.

Computation of time. Whenever a notice is to be given or any other act is to be done a certain time before any motion or proceeding, there must be that time, exclusive of the day for such motion or proceeding, but the day on which such notice is given or such act is done may be counted as part of the time; but when a notice is to be given or any other act is to be done after any event or judgment, that time shall be allowed in addition to the day on which the event or judgment occurred.

State law reference—Similar provisions, Code of Virginia, § 1-210.

Council, City Council. Wherever the terms "Council" and "City Council" are used, they shall be construed to mean the Council of the City of Richmond.

Delegation of authority. Any reference to any specific officer shall be deemed to include such officer's duly authorized deputy, agent or representative, subject, however, to Code of Virginia, § 15.2-1502.

Following. The term "following" means next after.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations, as well as to males.

State law reference—Similar provisions, Code of Virginia, § 1-216.

Joint authority. Words purporting to give authority to a collective body comprised of three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

State law reference—Similar provisions, Code of Virginia, § 1-222.

May. The term "may" is permissive.

Month. The term "month" means a calendar month.

State law reference—Similar provisions, Code of Virginia, § 1-223.

Number. A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only may extend and be applied to one person

or thing, as well as to several persons or things.

State law reference—Similar provisions, Code of Virginia, § 1-227.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

State law reference—Similar provisions, Code of Virginia, § 1-228.

Officers, departments, boards, commissions or other agencies. Whenever reference is made to a particular officer, department, board, commission or other agency, such reference shall be construed as if followed by the phrase "of the City of Richmond, Virginia."

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. The term "person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

State law reference—Similar provisions, Code of Virginia, § 1-230.

Preceding. The term "preceding" means next before.

Shall. The term "shall" is mandatory.

Signature and *subscription.* The terms "signature" and "subscription" include a mark when a person cannot write.

State and *Commonwealth.* The terms "State" and "Commonwealth" shall be construed as if the phrase "of Virginia" follows them.

State Code, Code of Virginia. References to "State Code" and "Code of Virginia" mean the Code of Virginia, as amended.

Swear and *sworn.* The terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

State law reference—Similar provisions, Code of Virginia, § 1-250.

Tense. Words used in the past or present tense include the future, as well as the past and present.

Year. The term "year" means a calendar year.

State law reference—Similar provisions, Code of Virginia, § 1-233.

(Code 1993, § 1-2; Code 2004, § 1-2; Code 2015, § 1-2)

Sec. 1-3. Continuation of existing ordinances.

The sections appearing in this Code, so far as they are in substance the same as those of the 2015 Code, and all ordinances adopted subsequent to the 2015 Code and included in this Code, shall be considered as continuations of the 2015 Code and not as new enactments.

(Code 1993, § 1-3; Code 2004, § 1-3; Code 2015, § 1-3)

Sec. 1-4. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect the following, unless expressly declared by this Code:

(1) Any ordinance or resolution promising or guaranteeing the payment of money by or on behalf of the City.

(2) Any ordinance or resolution authorizing any contract, agreement or other contractual obligation to which the City is a party.

(3) Any ordinance or resolution authorizing the issuance of bonds or other evidences of debt of the City.

(4) Any ordinance authorizing, providing for, or otherwise relating to any public improvement or any special assessment.

(5) Any ordinance or resolution granting a franchise, right, privilege, license or permit to use any public property or facility or any other property owned or controlled by the City.

(6) Any ordinance or resolution relating to the establishment of a single school district in and for the City, and the ownership, control and use of property devoted to public school purposes.

(7) Any ordinance or resolution concerning the management, control and administration of the affairs of the City government.

(8) Any ordinance or resolution concerning the appropriation or expenditure of money.

(9) Any ordinance or resolution levying or imposing taxes.

(10) Any ordinance or resolution concerning personnel rules and regulations, pay plans, retirement programs or the salaries or wages of officers and employees.

(11) Any ordinance or resolution relating to routes and schedules prescribed for motorbus transportation within the City and rates of fare that may be charged for transportation within the City and rates of fare that may be charged for transportation thereon.

(12) Any ordinance annexing territory to the City.

(13) Any ordinance or resolution pertaining to traffic regulations on specific streets.

(14) Any ordinance relating to the zoning map or zoning or rezoning specific property.

(15) Any section of an ordinance if such section does not amend the Code of the City of Richmond, Virginia, 2015.

(Code 1993, § 1-4; Code 2004, § 1-4; Code 2015, § 1-4)

Sec. 1-5. Prior offenses, rights, prosecutions, suits or proceedings not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done; any penalty or forfeiture incurred; any contract or right established or accruing; or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.

(Code 1993, § 1-5; Code 2004, § 1-5; Code 2015, § 1-5)

Sec. 1-6. Effect of new ordinances on former ordinances.

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment incurred or any right accrued or claim arising under the former ordinance or in any way whatsoever to affect any such offense or act so committed or done or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter had shall conform, so far as practicable, to the ordinance in force at the time of such proceedings.

(Code 1993, § 1-6; Code 2004, § 1-6; Code 2015, § 1-6)

State law reference—Similar provisions as to State statutes, Code of Virginia, § 1-239.

Sec. 1-7. Severability of parts of Code.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1993, § 1-7; Code 2004, § 1-7; Code 2015, § 1-7)

Charter reference—Severability of Charter, § 20.13.

State law reference—Severability of State statutes, Code of Virginia, § 1-243.

Sec. 1-8. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be a title of the section nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchline, is amended or reenacted.

(Code 1993, § 1-8; Code 2004, § 1-8; Code 2015, § 1-8)

State law reference—Section catchlines in State statutes, Code of Virginia, § 1-217.

Sec. 1-9. Correction of typographical mistakes by City Clerk.

During the process of adopting an ordinance or resolution and thereafter, the City Clerk shall be authorized to correct any typographical mistakes without the necessity of going through the adoption and amending process again.

(Code 1993, § 1-10; Code 2004, § 1-9; Code 2015, § 1-9)

Sec. 1-10. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

(Code 2004, § 1-10; Code 2015, § 1-10)

Sec. 1-11. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

(Code 2004, § 1-11; Code 2015, § 1-11)

Sec. 1-12. References and editor's notes.

The references and editor's notes appearing throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

(Code 2004, § 1-12; Code 2015, § 1-12)

Sec. 1-13. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. For repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from affected reprinted pages. The subsequent ordinances as numbered and printed or omitted, in case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the City Council.

(b) Amendments to any of the provisions of this Code may be made by amending such provision by specific reference to the section number of this Code in substantially the following language: "That Section (number of section) of the Code of the City of Richmond, Virginia, 2020, is hereby amended to read as follows:. . .." The ordinance shall indicate the matter to be omitted by enclosing the matter in brackets, by striking through the matter to be omitted, or by both such brackets and striking through and indicating new matter by underscoring.

(c) If a new section not existing in this Code is to be added, the following language may be used: "That the Code of the City of Richmond, Virginia, 2020, is hereby amended by adding a section, to be numbered (state number), which said section reads as follows:. . .." The new section shall then be set out in full as adopted.

(d) All sections, subdivisions, divisions, articles, chapters or provisions to be repealed must be specifically repealed by section, subdivision, division, article or chapter number, as the case may be.

(Code 2004, § 1-13; Code 2015, § 1-13)

Charter reference—Ordinances, § 4.08 et seq.

Sec. 1-14. Supplementation of Code.

(a) By contract or by City personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the City. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum during the period covered by the supplement and all changes made in the Code and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered so they fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," this division," etc., as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 1993, § 1-9; Code 2004, § 1-14; Code 2015, § 1-14)

State law reference—Authority to supplement Code, Code of Virginia, § 15.2-1433.

Sec. 1-15. Availability of Code and supplements for public inspection.

At least three copies of this Code and every supplement thereto shall be kept in the Office of the City Clerk and shall be available for public inspection during normal business hours.

(Code 1993, § 1-11; Code 2004, § 1-15; Code 2015, § 1-15)

State law reference—Retention of copy of Code and supplements for public inspection, Code of Virginia, § 15.2-1433.

Sec. 1-16. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance of the City or rule or regulation promulgated by an officer, board or commission or agency thereof, under authority vested by law or ordinance, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, the violation of any such provision of the Code, ordinance, rule or regulation shall be punished as follows, except as otherwise provided in subsection (b) of this section:

(1) Whenever an act or offense, or the failure to do any act, is declared to be a Class 1 misdemeanor, such act or offense shall be punished by a fine of not more than $2,500.00 or confinement in jail for not more than 12 months, or both such fine and imprisonment.

(2) Whenever an act or offense, or the failure to do any act, is declared to be a Class 2 misdemeanor, such act or offense shall be punished by a fine of not more than $1,000.00 or confinement in jail for not more than six months, or both such fine and imprisonment.

(3) Whenever an act or offense, or the failure to do any act, is declared to be a Class 3 misdemeanor, such act or offense shall be punished by a fine of not more than $500.00.

(4) Whenever an act or offense, or the failure to do any act, is declared to be a Class 4 misdemeanor, such act or offense shall be punished by a fine of not more than $250.00.

(b) Whenever:

(1) A section in this Code or other ordinance of the City prescribes punishment by stating:

a. That the act or offense, or the failure to do any act, is a misdemeanor; or

b. That it is punishable as provided for in this section; or

(2) No specific penalty is provided for an act or offense, or the failure to do any act;

the act or offense, or failure to do any act, shall be deemed to be a Class 1 misdemeanor. Acts or offenses, or failure to do any act, defined by the various sections of this Code, for which punishment is prescribed without specification as to the class of misdemeanor of the offense, act, or failure to act, shall be punished according to the section defining the offense, act or failure to act.

(c) Except where otherwise provided, each day any violation of this Code or of any such ordinance, rule or regulation shall continue shall constitute a separate offense.

(Code 1993, § 1-12; Code 2004, § 1-16; Code 2015, § 1-16; Ord. No. 2011-113-141, § 1, 7-25-2011)

Charter reference—Maximum penalties permitted, § 2.06.

State law reference—Classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9, 18.2-11; authority of City to provide penalties for violation of ordinances, Code of Virginia, § 15.2-1429; authority of court trying case, upon conviction, to require bond conditioned that the person convicted will not violate the ordinance for the breach of which he was convicted for a period of not more than one year, Code of Virginia, § 15.2-1430; injunctive relief for continuing violations of ordinances, Code of Virginia, § 15.2-1432.

Sec. 1-17. Recovery of fines and penalties payable to City; disposition of fines.

Fines and penalties and imposition of jail sentences or other punishments provided for the violation of any section of this Code, any ordinance adopted by the Council, or any rule or regulation promulgated by any officer or agency of the City under authority vested by law or ordinance shall be recoverable before the judges of the General District Court of the City in all cases arising within its jurisdiction, before the judges of the Juvenile and Domestic Relations District Court in all cases arising within its jurisdiction, and before the judges of the Circuit Court of the City in all cases arising within its jurisdiction. All fines recovered shall be paid into the City treasury and shall inure to the use of the City.

(Code 1993, § 1-13; Code 2004, § 1-17; Code 2015, § 1-17)

Charter reference—Collection of fines, § 2.06.

State law reference—Fees and fines paid to City, Code of Virginia, § 16.1-69.48(B).

Sec. 1-18. Records of arrest and disposition of cases; fee for records to certain persons.

(a) There shall be kept in the Department of Police such record of arrests and disposition of cases based thereon as the Chief of Police shall require. The Chief may make such factual information contained in such record available to any governmental law enforcement officer or agent, which shall be made without charge. The Chief may make such information available to other persons who apply therefor in writing on forms prescribed by the Chief upon the payment of a $15.00 fee to defray the cost of providing such service.

(b) The Chief shall not make any such information available to any person unless the Chief is satisfied that by doing so the prevention or detection of crime in the City will be promoted; provided that nothing in this section shall be construed to authorize the Chief of Police to disclose any criminal history record information except pursuant to State law and any information regarding an expunged criminal record except pursuant to Code of Virginia, §§ 19.2-392.1—19.2-392.4.

(Code 1993, § 1-14; Code 2004, § 1-18; Code 2015, § 1-18)

State law reference—Arrest records, Code of Virginia, § 15.2-1722; criminal records, Code of Virginia, § 19.2-387.

Chapter 2

ADMINISTRATION*

***Charter reference—**City Council, Ch. 4; Mayor and Chief Administrative Officer, Ch. 5.

Cross reference—Any ordinance or resolution promising or guaranteeing the payment of money by or on behalf of the City saved from repeal, § 1-4(1); any ordinance or resolution authorizing any contract, agreement or other contractual obligation to which the City is a party saved from repeal, § 1-4(2); any ordinance or resolution concerning the management, control and administration of the affairs of the City government saved from repeal, § 1-4(7); any ordinance or resolution concerning the appropriation or expenditure of money saved from repeal, § 1-4(8); City-owned real estate, Ch. 8; elections, Ch. 9; finance, Ch. 12; libraries, Ch. 18; offenses against public administration, § 19-29 et seq.; public procurement, Ch. 21; public retirement, Ch. 22; taxation, Ch. 26; utilities, Ch. 28.

State law reference—Government of cities, Code of Virginia, § 15.2-1100 et seq.; municipal charters, Code of Virginia, § 15.2-200 et seq.; City elected officers, Code of Virginia, § 15.2-1522 et seq.

ARTICLE I. IN GENERAL

Sec. 2-1. City seal.

(a) The seal of the City shall be represented by a design, within a circle 1 3/4 inches in diameter, which shall represent a female figure typifying robed justice, bearing scales in the left hand and carrying a drawn sword in the right hand; the inner and upper semicircle to contain the motto "SIC ITUR AD ASTRA" (such is the way to the stars) in Roman characters, and under the figure, in smaller Roman characters, the words "City of Richmond, July 19, 1782," being the seal in use by the City prior to October 1782.

(b) No other design or seal shall be used for the City, and no paper issued with municipal authority, which requires the seal of the City, shall be valid unless the seal described in subsection (a) of this section shall be affixed to such paper.

(Code 1993, § 2-1; Code 2004, § 2-1; Code 2015, § 2-1)

Charter reference—Designation of City Clerk as custodian of corporate seal, § 4.04.

Sec. 2-2. City flag.

(a) The flag of the City shall be as described as follows: The upper two-thirds of the flag shall be a field of flag blue, the lower one-third shall be two parallel bars of flag red of equal width, and a thin line of flag white shall be imposed above each red bar; centered on the field of blue shall be imposed a white silhouette of a bare-headed bateau boatman, standing on the prow of a bateau, facing and poling toward the honor side (left), with the end of the pole extending into the upper red bar; and orbiting in an open bottomed arc around the boatman shall be nine stars of flag white, representing the states of which Richmond was once capital.

(b) The City flag shall be displayed in proportions of three hoist (height) to five fly (length).

(Code 1993, § 2-2; Code 2004, § 2-2; Code 2015, § 2-2)

Sec. 2-3. City logo.

The logo of the City shall be represented by an oval shape with an interpretive design of the Richmond skyline, the James River, and the bridges connecting the community. The word "RICHMOND" in Roman characters appears above the skyline and bridge design, and the word "VIRGINIA" in smaller Roman characters appears below a wave design representing the James River. A rising star dots the "I" in "RICHMOND," symbolizing the City's role as the capital of the Commonwealth.

(Code 1993, § 2-2.1; Code 2004, § 2-3; Code 2015, § 2-3)

Sec. 2-4. Certain uses of City seal, City flag and City logo prohibited.

(a) It shall be unlawful for any person or other organization to use the City seal, City flag, City logo, or the design thereof or any imitation, reproduction or replication thereof, except for the usual and customary official purposes, including decoration and display; and no person or other organization shall print, impress or stamp thereon

any word, legend or device other than those described in this subsection. However, the Chief Administrative Officer shall have the authority to grant permission for the use of the design in such ways as the Chief Administrative Officer shall consider proper, other than for advertising purposes.

(b) Any person who shall use the City seal, City flag, City logo or the design thereof for advertising purposes or who shall print or emblazon thereon any word, legend or device, not duly authorized as stated in subsection (a) of this section, shall, upon conviction, be fined a sum not exceeding $25.00 and not less than $5.00 for each and every offense. Each City seal, City flag, City logo, or design thereof so used or so printed or stamped shall constitute a separate offense under this section.

(Code 1993, § 2-2.2; Code 2004, § 2-4; Code 2015, § 2-4; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-5. City flower.

The flower known by the botanical name of "Iris" is hereby declared to be the City flower, and the flower, as such, may be displayed in the parks of the City, public and private, and otherwise appropriately used as such.

(Code 1993, § 2-3; Code 2004, § 2-5; Code 2015, § 2-5)

Secs. 2-6—2-28. Reserved.

ARTICLE II. CITY COUNCIL*

***Charter reference—**City Council, Ch. 4.

Cross reference—Elections, Ch. 9.

Sec. 2-29. Council liaisons.

(a) The City Council may provide for the appointment of a Council liaison for each member of the Council to assist the members with administrative support and responding to constituent concerns.

(b) Any such Council liaison shall be appointed by the Council for an indefinite term and shall be a member of the unclassified service.

(c) The City Council shall provide for training and coordination of assignments for each liaison. The City Council shall also provide for the maintenance of evaluation information on each liaison and the provision of such evaluation information to the City Council at the time that the Council conducts its evaluation of other Council appointees.

(Code 1993, § 2-141; Code 2004, § 2-31; Code 2015, § 2-29; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2011-118-152, § 1, 9-12-2011)

Sec. 2-30. Council Chief of Staff; appointment; duties.

(a) The City Council may provide for the appointment of a Chief of Staff for the Council. The Chief of Staff shall be appointed by the City Council for an indefinite term and shall be a member of the unclassified service. The Chief of Staff shall have general management and control over the affairs of the City Council, including the following:

(1) Assistance to the Council with formulation of the Council's strategic plan and evaluation;

(2) Budget development;

(3) Budget policy analysis;

(4) Public information services;

(5) Public policy research and analysis;

(6) Program reporting and performance evaluation; and

(7) Coordination of Council-appointed agencies' services.

(b) The Chief of Staff shall also serve as a liaison between the Council, the Mayor's Office, the Chief Administrative Officer, Deputy Chief Administrative Officers, City agency heads, other governmental entities, community organizations and others as required. The Chief of Staff shall provide general supervision over other

positions that may be established and assigned to the Chief of Staff by the Council. The Chief of Staff shall perform such other duties as assigned by the Council through an ordinance, resolution, motion or vote. The Chief of Staff shall also perform such other duties as assigned by any member of the Council, to the extent permitted by any applicable policies and procedures of the Council.

(Code 2004, § 2-32; Code 2015, § 2-30; Ord. No. 2004-361-353, § 1, 12-13-2004; Ord. No. 2009-125-133, § 1, 7-13-2009)

Sec. 2-31. Council Policy Analyst; appointment; duties.

The City Council may provide for the appointment of a Council Policy Analyst to assist the Council with the analysis of current and proposed policies of the City. The Council Policy Analyst shall be appointed by the City Council for an indefinite term and shall be a member of the unclassified service. The Council Policy Analyst shall be responsible for conducting research, assessments and comparative analysis on current and proposed policies of the City and for the development and distribution of position papers and impact statements relating to such policies. The Council Policy Analyst shall annually develop and distribute for Council's consideration legislative proposals that require action by the Virginia General Assembly. The Council Policy Analyst shall also perform such other duties as may be assigned by the City Council or any member thereof.

(Code 2004, § 2-33; Code 2015, § 2-31; Ord. No. 2004-362-354, § 1, 12-13-2004)

Sec. 2-32. Council Budget Analyst; appointment; duties.

(a) The City Council may provide for the appointment of a Council Budget Analyst to assist the Council with the analysis of current and proposed policies and legislation that affect the City's budgets. The Council Budget Analyst shall be appointed by the City Council for an indefinite term and shall be a member of the unclassified service. The Council Budget Analyst shall be responsible for:

(1) Reviewing all appropriation items recommended in the proposed annual budgets presented to the City Council and in any amendments thereto;

(2) Analyzing the fiscal impact of actual or proposed changes in City agency programs;

(3) Providing the members of the City Council with periodic comparative analyses showing the distribution of City spending per Council district pursuant to the annual budget and any amendments thereto;

(4) Assisting the Council in setting budget priorities and making budget allocations based upon performance;

(5) Analyzing tax abatement and deferral programs to determine their fiscal impact on the City; and

(6) Conducting quarterly financial and performance reviews and submitting reports thereof to the Council.

(b) The Council Budget Analyst shall also perform such other duties as may be assigned by the City Council or any member thereof.

(Code 2004, § 2-34; Code 2015, § 2-32; Ord. No. 2004-363-355, § 1, 12-13-2004)

Sec. 2-33. Council Public Relations Specialist; appointment; duties.

The City Council may provide for the appointment of a Council Public Relations Specialist to assist the Council with media relations. The Council Public Relations Specialist shall be appointed by the City Council for an indefinite term and shall be a member of the unclassified service. The Council Public Relations Specialist shall be responsible for the development of a comprehensive program to distribute to the media information concerning the City's policies, programs and goals. The Council Public Relations Specialist shall be responsible for the preparation and distribution of news releases and advisories, the organization of press conferences for Council members and the development and publication of newsletters and shall supervise all media relations and media communications for the Council members. The Council Public Relations Specialist shall coordinate all special events and awards ceremonies for members of the Council and shall also perform such other duties as assigned by the City Council or any member thereof.

(Code 2004, § 2-35; Code 2015, § 2-33; Ord. No. 2004-364-356, § 1, 12-13-2004)

Sec. 2-34. City Council member newsletters.

(a) City Council members may use public funding to develop and distribute a newsletter or other publication

issued in written or electronic form to assist Council member communication with citizens regarding matters of importance to the Richmond or Council district community. The form of the newsletter or other publication and the frequency of its distribution shall be matters left to the discretion of the Council member, except as otherwise provided in this section.

(b) Costs of developing, publishing and distributing a single edition of a newsletter or other publication issued in written or electronic form in excess of $1,000.00 shall be submitted to the City Council for approval via resolution prior to the contractual obligation or expenditure of funds.

(c) Any newsletter or other publication issued in written or electronic form pursuant to this section shall not contain any material that directly promotes the candidacy of an identified individual for public elected office.

(d) Newsletters or any other publications issued in written or electronic form 90 days prior to a local election involving any contested City Council seat shall not be funded with public monies.

(Code 2004, § 2-36; Code 2015, § 2-34; Ord. No. 2007-27-49, § 1, 3-12-2007)

Secs. 2-35—2-56. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

***Cross reference—**Any ordinance or resolution concerning personnel rules and regulations, pay plans, retirement programs or the salaries or wages of officers and employees saved from repeal, § 1-4(10); Personnel Board, § 2-926 et seq.; personnel, § 2-1203 et seq.; Animal Control Officer, facilities and impoundment, § 4-52 et seq.; Commissioner of Buildings, § 5-4; employee parking fee, § 12-9; Library Director, § 18-65 et seq.; District Health Director, § 15-1; Harbormaster, § 20-23; ethics in public contracting, § 21-274 et seq.; public retirement, Ch. 22; Assessor, § 26-101 et seq.; Director of Public Utilities, § 28-25 et seq.; Zoning Administrator, § 30-1000 et seq.

State law reference—Local government officers and employees, Code of Virginia, § 15.2-1500 et seq.

DIVISION 1. GENERALLY

Sec. 2-57. Defense and indemnification of City officers and employees.

(a) For purposes of this section only, the term "City officers and employees" shall include the following:

(1) The Council and the members thereof;

(2) The members, trustees and employees of boards, commissions and committees of the City who are not specifically excluded in this section; and

(3) Volunteers who are registered with and specifically requested or authorized to perform services for and on behalf of departments or agencies of the City.

(b) In addition to the other duties prescribed by law, the City Attorney shall represent, without charge, all City officers and employees with respect to any claim or cause of action arising from the conduct of such officers and employees and other designated persons in the discharge of their official duties undertaken during their term of office or employment or in their capacity as volunteers performing services for the City. Those persons entitled to the benefits and coverage provided in this section shall include any former officers or employees or their estates or personal representatives. Such conduct is hereby deemed to include administrative and professional malpractice, as well as acts committed or alleged to have been committed that result in or are alleged to result in deprivations of rights, privileges, and immunities guaranteed by the United States Constitution or the State Constitution or of any statute affording a cause of action for damages or injunctive relief for such deprivations.

(c) If an actual or potential conflict of interest occurs involving the City Attorney's representation of the City and any of its officers or employees or volunteers on any claim, action at law, suit in equity or combination of claims, actions and suits and if any such conflict of interest or other ethical considerations might impede effective representation and legal defense by the City Attorney, the City Attorney shall be authorized and shall have sole discretion to retain independent counsel to represent any officers or employees or volunteers who, in the opinion of the City Attorney, are entitled to and require such counsel. The costs and expenses of such representation, including attorney's fees, shall be paid out of the funds appropriated by the City for insurance and self-insurance, except when otherwise provided by ordinance.

(d) All officers and employees and volunteers performing services as authorized in this section who become legally obligated to pay any claims, including, but not limited to, settlements, defense of actions or suits, satisfaction of judgments, costs or awards of attorney's fees, arising from the conduct of such officers and employees in the discharge of their official duties in serving the City shall only be entitled to payment therefor by the City where the claim shall have been determined by the Chief Administrative Officer, upon the recommendation of the City Attorney, to have resulted from actions that:

(1) Were done in good faith;

(2) Were done in the reasonable belief that such activities were in the best interests of the City;

(3) Were within the scope of authority of the person so acting;

(4) Were done within the course of employment of the person so acting or within the scope of services which a person is performing voluntarily and pursuant to authorization; and

(5) Did not involve actual fraud, corruption, actual malice or a violation of criminal laws on the part of the officer, employee or volunteer.

(e) The Chief Administrative Officer is authorized to continue in effect or procure replacement thereof insofar as practicable liability insurance policies for City officers and employees or other persons authorized to act for and on behalf of the City, with legal defense of claims thereunder to be provided in accordance with the terms of the policies of insurance. The City Attorney shall represent City officers and employees and volunteers as encompassed in this section to the extent deemed necessary to supplement legal services provided under such liability insurance policies. The protection afforded under this subsection shall expressly be deemed to be contingent upon the absence of, or to be a supplement to the limits of, any valid collectible insurance covering the risks subject to this section.

(f) Notwithstanding subsection (b) of this section, no legal fees shall be paid on behalf of officers and employees and volunteers or legal representation provided by the City Attorney for the defense of acts alleged to have been committed by officers or employees and volunteers in violation of criminal laws, including the penal ordinances of the City, nor shall any fines or penalties be paid by or reimbursed by the City.

(g) The duty to defend or pay any judgment or settlement amounts, costs and expenses, including attorney's fees, shall be conditioned upon the following:

(1) Delivery by the officer or employee or volunteer to the City Attorney of a written request to provide for a defense, together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after such officer or employee or volunteer is served with such document; and

(2) The good faith cooperation of the officer or employee or volunteer in the defense of any action or proceeding against the City based upon the same act or omission and in the prosecution of any appeal.

The conditions, or either of them, set forth in this subsection may be waived, for good cause shown, by the City Attorney.

(h) This section shall not apply to, be for the benefit of or provide coverage for the following:

(1) Constitutional officers, including, but not limited to, the Treasurer, Sheriff, Attorney for the Commonwealth or Clerk of Court, or any deputy, assistant, employee or volunteer of any of such officers;

(2) Members or volunteers and employees of the School Board;

(3) Members or volunteers and employees of the Richmond Redevelopment and Housing Authority; and

(4) The General Registrar, members of the Electoral Board and officers of election for the City and any deputies, assistants, volunteers or employees thereof.

(i) Nothing contained in this section shall be construed to abrogate any statutory right of appeal from disallowance of claims, and any officer or employee or volunteer may appeal the Chief Administrative Officer's disallowance of representation or payment under this section to the City Council.

(j) Nothing contained in this section shall be construed to abrogate or waive any defense of governmental immunity on behalf of the City or of its officers or employees or its volunteers.

(Code 1993, § 2-37; Code 2004, § 2-71; Code 2015, § 2-57; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Insurance and legal defense of City employees, Code of Virginia, § 15.2-1517 et seq.; appointment of counsel for defense of constitutional officers, Code of Virginia, § 15.2-1606.

Sec. 2-58. Restrictions on activities of former officers and employees.

(a) The term "officer or employee," as used in this section, includes members of the City Council, City officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the City Council.

(b) It shall be unlawful for former officers and employees, for one year after their terms of office have ended or employment has ceased, to represent a client or act in a representative capacity on behalf of any person or group, for compensation, on matters related to ordinances, contracts, proceedings, applications, cases, or other matters of any nature involving any agency, department, or Office of the City government in which the former officer or employee served or was employed during the one-year period immediately prior to the termination of employment or service. This prohibition shall be in addition to any other prohibition that may be provided by law.

(Code 2015, § 2-58; Ord. No. 2019-115, § 1, 5-13-2019)

Secs. 2-59—2-87. Reserved.

DIVISION 2. CHIEF ADMINISTRATIVE OFFICER*

***Charter reference—**Appointment, powers and duties of Chief Administrative Officer, § 5.01.1 et seq.

Sec. 2-88. Application for ordinance granting special privilege.

The City Council shall not consider any ordinance granting a special privilege to any person unless and until such person shall have filed with the Chief Administrative Officer an application in writing setting forth the nature, character and extent of the privilege desired. Such application shall be accompanied with a receipt showing the payment into the City treasury of a filing fee of $300.00. Any subsequent revision of the application by the applicant will be subject to the payment of an additional fee of $150.00. Such fees shall not be refunded, in whole or in part, unless the Chief Administrative Officer shall approve the refund for good cause shown. The receipt for payment of the fee shall be attached to the draft of the ordinance when introduced at any meeting of the Council.

(Code 1993, § 2-26; Code 2004, § 2-101; Code 2015, § 2-88; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-89. Acceptance of gifts.

(a) The Chief Administrative Officer, for and on behalf of the City, is hereby authorized to accept gifts, donations, bequests or grants of money, securities, personalty or in-kind services of a value up to and including $25,000.00.

(b) Within 30 days of the end of each fiscal quarter, the Chief Administrative Officer shall furnish the City Council with a report describing all money accepted pursuant to this section. For each gift, donation, bequest and grant of money, such report shall include, at a minimum:

(1) The identity of the donor or grantor;

(2) The amount of the gift, donation, bequest or grant;

(3) Any conditions, including requirements for matching funds, placed upon the gift, donation, bequest or grant.

(Code 1993, § 2-27; Code 2004, § 2-102; Code 2015, § 2-89; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2009-159-167, § 1, 10-12-2009)

Charter reference—Authority to accept gifts, § 2.02(e).

Sec. 2-90. Response required for audit findings.

The Chief Administrative Officer shall provide, or cause the appropriate City agency under the control or supervision of the Chief Administrative Officer to provide, a written response to any and all audit findings, management letter comments, or recommendations issued by the City Auditor, any contracted external auditor, and

any Federal or State agency that conducts an audit or review, or both, of any funding or operations, or both, of any and all City activities, agencies, functions or programs under the control or supervision of the Chief Administrative Officer in accordance with this section. The Chief Administrative Officer or the appropriate City agency shall submit all written responses to audits by the City Auditor no later than ten working days after the issuance of such audit findings. The Chief Administrative Officer shall submit such written response to audit findings, management letter comments or recommendations by any contracted external auditor and any Federal or State agency to the Audit Committee and the City Council within 30 days after the issuance of such audit findings, management letter comments or recommendations.

(Code 2004, § 2-103; Code 2015, § 2-90; Ord. No. 2008-211-231, § 1, 10-27-2008; Ord. No. 2011-165-168, § 1, 10-24-2011)

Sec. 2-91. License to use non-City real property.

The Chief Administrative Officer, on behalf of the City, may enter into license agreements or similar documents to permit the City to use real property not owned by the City, provided that (i) the period of time for which the City is allowed to use the real property is not greater than five days, (ii) the license agreement or similar document does not grant the City a leasehold interest or other property interest in the real property, and (iii) the City Attorney has approved as to form the license agreement or similar document prior to the Chief Administrative Officer's signature thereof.

(Code 2015, § 2-91; Ord. No. 2016-175, § 1, 6-27-2016)

Secs. 2-92—2-108. Reserved.

DIVISION 3. CITY ATTORNEY*

***Charter reference—**City Attorney, § 4.17.

Sec. 2-109. Practice of law by Assistant City Attorneys.

The regular, permanent, full-time Assistant City Attorneys shall not engage in the practice of law otherwise than as prescribed in the Charter for the City Attorney.

(Code 1993, § 2-36; Code 2004, § 2-131; Code 2015, § 2-109)

Sec. 2-110. Opinions.

When the opinion of the City Attorney is requested on any question of law, the City Attorney shall require the request therefor to be in writing, when practicable, and shall respond in writing as often and as fully as is practicable. A copy of each opinion shall be kept on file in the City Attorney's Office and shall be made available for inspection of any person affected by the opinion or having an interest in the opinion. The City Attorney shall prepare periodic indexes of such opinions and may distribute such indexes among the departments, bureaus, boards, commissions, offices, agencies and courts of the City.

(Code 1993, § 2-38; Code 2004, § 2-132; Code 2015, § 2-110)

Sec. 2-111. Payment of fees into City treasury.

All fees allowed the City Attorney by law for acting as attorney in suits, actions and proceedings to which the City is a party shall be collected and paid into the City treasury.

(Code 1993, § 2-39; Code 2004, § 2-133; Code 2015, § 2-111)

Sec. 2-112. Legal services to certain entities; prosecution of certain criminal offenses.

(a) The City Attorney shall provide such legal services as may be necessary and appropriate as requested by the following entities:

(1) The Economic Development Authority of the City of Richmond.

(2) The Greater Richmond Transit Company, including representation for its officers and employees with respect to certain claims for damages.

(3) The Advantage Richmond Corporation.

(b) The City Attorney shall, with the concurrence of the Commonwealth's Attorney for the City of

Richmond, prosecute charges of criminal offenses arising under:

(1) The Virginia Uniform Statewide Building Code.

(2) The Virginia Statewide Fire Prevention Code, together with local modifications thereto.

(3) Chapters 26 and 30 and Sections 11-102 and 27-328.

(c) The City Attorney, when required by contract approved by the City Council, shall represent State employees performing services for the City.

(Code 2004, § 2-134; Code 2015, § 2-112; Ord. No. 2011-178-176, § 1, 11-14-2011; Ord. No. 2017-103, § 1, 6-12-2017)

Secs. 2-113—2-137. Reserved.

DIVISION 4. CITY CLERK*

***Charter reference—**City Clerk generally, § 4.04.

Sec. 2-138. Transmission of ordinances to Courts and the Chief Magistrate.

The City Clerk shall transmit to the Clerks of the Circuit Court, the General District Court and the Juvenile and Domestic Relations District Court and to the Chief Magistrate copies of all ordinances providing for the imposition of a fine or jail sentence, or both, for the violation thereof on the day following the day such ordinances are adopted. The City Clerk may satisfy this requirement by transmitting copies of such ordinances to such individuals electronically.

(Code 1993, § 2-51; Code 2004, § 2-161; Code 2015, § 2-138; Ord. No. 2004-66-66, § 1, 4-13-2004)

Secs. 2-139—2-159. Reserved.

DIVISION 5. EMPLOYEE DISCLOSURE OF MISCONDUCT AND PROTECTION FROM RETALIATION

Sec. 2-160. Purpose and applicability; policy.

(a) This division sets forth the policy of the City concerning employee disclosure of misconduct and the protection of employees from retaliation for disclosing what the employee believes evidences certain unlawful, wasteful or hazardous practices. This policy is applicable to all employees of the City.

(b) The City is committed to operating legally and ethically at all times. Therefore, employees are required to report violations of laws, regulations, and policies that they either observe or reasonably suspect. Failure to report a known violation shall result in disciplinary action.

(c) It is the policy of the City that common sense and sound business judgment is the key to determining whether conduct complies with ethical and legal standards. All City employees encountering a situation that may involve fraud, misuse of property or theft such that they feel uncomfortable or unsure, are required to ask:

(1) Whether the conduct is legal;

(2) Whether the parties are being fair and honest; and

(3) Whether the conduct is in the best interest of the City or its citizens.

If the answer to any of the preceding questions is in the negative, the employees have a duty to report the potentially unlawful or wrongful conduct or to request additional information.

(d) It is also the policy of the City that any employee shall be free without fear of retaliation to make known allegations of alleged misconduct existing within the City that he reasonably believes evidences:

(1) An abuse of authority, gross misconduct, or gross waste of money;

(2) Embezzlement of or fraud involving City funds;

(3) A substantial and specific danger to public health or safety; or

(4) A violation of law.

No retaliation of any kind shall be tolerated against an employee who makes a good faith report of any known or suspected violation, even if further investigation finds the report to be erroneous. In particular, no officer or

employee of the City shall take or refuse to take any personnel action as retaliation against an employee who discloses information regarding misconduct under this policy or who, following such disclosure, seeks a remedy provided under this policy or any other law, rule or regulation.

(e) To the extent possible, reports of misconduct shall be kept anonymous when requested by the reporting individual. Every effort shall be made to preserve the confidentiality of the report of misconduct.

(f) Alleged acts of retaliation shall be investigated by the Chief Administrative Officer or his designee.

(g) Any employee found to have known of misconduct but failed to report shall be subject to disciplinary action.

(h) Any employee who purposely makes a false report of an alleged violation shall be subject to disciplinary action and may be subject to other legal action.

(Code 2004, § 2-211; Code 2015, § 2-160; Ord. No. 2004-1-12, § 1, 2-9-2004; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-161. Procedure for disclosure.

(a) City employees are responsible for reporting instances of misconduct, including fraud, waste and abuse. An employee shall disclose all relevant information regarding evidenced misconduct to the Inspector General or the designee thereof within one month of the day on which he knew or reasonably should have known of the misconduct. He may contact the Office of the Inspector General by way of the hot line, through the Inspector General's website, in writing or in person. The Inspector General shall publicize the means by which employees may disclose information pursuant to this section.

(b) The Inspector General or the designee thereof shall consider the disclosure and take whatever action he determines to be appropriate under the law and circumstances of the disclosure.

(c) In the case of disclosure of misconduct involving:

(1) State funds;

(2) The Mayor;

(3) The Chief Administrative Officer;

(4) Any City Council member; or

(5) Any constitutional officer;

the Inspector General shall refer the disclosure to the Auditor of Public Accounts and the Virginia State Police as required by State law.

(d) If the disclosure of misconduct results in recovery or savings by the City of money in the amount of $5,000.00 or more during one year, the City shall pay to the person who discloses the misconduct a single, nonrecurring reward that equals ten percent of the money recovered or saved up to a maximum of $5,000.00.

(e) Any person other than a City employee may disclose relevant information regarding evidence of misconduct to the Inspector General or the designee thereof within one month of the day on which the person knew or learned of the misconduct. The person may disclose relevant information by way of the audit hot line or through the Inspector General's website, in writing or in person. The Inspector General or the designee thereof may use his discretion to consider the validity and merit of the disclosure and take whatever action he determines to be appropriate under the law and circumstances of the disclosure.

(f) The Inspector General shall publicize those various mechanisms by which citizens and employees may communicate information regarding evidence of misconduct to him or his designee.

(Code 2004, § 2-212; Code 2015, § 2-161; Ord. No. 2004-1-12, § 1, 2-9-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2007-28-68, § 1, 4-9-2007; Ord. No. 2007-286-250, § 1, 11-12-2007; Ord. No. 2009-91-101, § 1, 6-8-2009; Ord. No. 2018-337, § 1, 1-28-2019)

Sec. 2-162. Complaints of retaliation as a result of disclosure.

(a) If an employee believes that he has been retaliated against in the form of an adverse personnel action for disclosing information regarding misconduct under this policy, he may file a written complaint requesting an

appropriate remedy with the Chief Administrative Officer or his designee within 20 days after he knew or reasonably should have known of the adverse personnel action, whichever is later.

(b) All complaints filed under this section shall include, at a minimum, the following:

(1) The name and work address of the complainant;

(2) The name and title of each City officer or employee against whom the complaint is made;

(3) The specific type of each adverse personnel action taken;

(4) The specific date on which each adverse personnel action was taken;

(5) A clear and concise statement of the facts that form the basis of the complaint;

(6) A clear and concise statement of the complainant's explanation of how his previous disclosure of misconduct is related to the adverse personnel action; and

(7) A clear and concise statement of the remedy sought by the complainant.

(c) For purposes of this section, an adverse personnel action shall be defined as actions, including, but not necessarily limited to, the following:

(1) A disciplinary suspension;

(2) A decision not to promote;

(3) A decision not to grant a salary increase;

(4) A termination;

(5) An involuntary demotion;

(6) Rejection during probation;

(7) A performance evaluation in which the employee's performance is generally evaluated as unsatisfactory;

(8) An involuntary resignation;

(9) An involuntary retirement;

(10) An involuntary reassignment to a position with demonstrably less responsibility or status as the one held prior to the reassignment; or

(11) An unfavorable change in the general terms and conditions of employment.

(Code 2004, § 2-213; Code 2015, § 2-162; Ord. No. 2004-1-12, § 1, 2-9-2004; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-163. Determination regarding the complaint.

(a) Within 60 calendar days of receipt of the complaint the Chief Administrative Officer or the designee thereof shall:

(1) Consider the written complaint;

(2) Conduct an investigation which, in his judgment, is consistent with the circumstances of the complaint and disclosure; and

(3) Provide the complainant with a determination regarding the complaint.

(b) The determination shall be in writing and shall include the findings of fact, the conclusions of the investigation and, if applicable, a specific and timely remedy consistent with the findings.

(c) For purposes of this division, a remedy may include back pay, promotion, reinstatement, reassignment, removal of detrimental material from institutional files, a written correction of institutional records, appointment, a change in the terms and conditions of employment, or any other action considered by the Chief Administrative Officer or the designee thereof to be consistent with the findings. If the Chief Administrative Officer or the designee thereof determines that an employee has been retaliated against for his prior disclosure of misconduct, the Chief Administrative Officer or the designee thereof shall immediately initiate the appropriate disciplinary or legal action consistent with the circumstances of the complaint and the disclosure against the perpetrator of the retaliation. The

Chief Administrative Officer or the designee thereof shall report the results of such action to the Inspector General.

(Code 2004, § 2-214; Code 2015, § 2-163; Ord. No. 2004-1-12, § 1, 2-9-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2018-337, § 1, 1-28-2019)

Sec. 2-164. Administrative appeal of determination.

(a) If the complainant disagrees with the determination issued by the Chief Administrative Officer or his designee or if the determination is not issued within 60 days, then the complainant may request that the matter be considered at a hearing conducted by the City's Personnel Board. The complainant shall submit his request in writing to the Secretary of the Personnel Board within 15 calendar days from the date on which the Chief Administrative Officer or his designee issued or should have issued the determination.

(b) The Personnel Board shall conduct a hearing pursuant to the request within 45 calendar days of the receipt of the request by the Secretary of the Personnel Board. At the complainant's sole option, the complainant may be represented by legal counsel of his choice and at his sole cost at the hearing. The Personnel Board shall issue and distribute a written decision to all parties within 45 calendar days from the hearing date. The Personnel Board's decision shall include:

(1) A finding of facts based upon the evidence and arguments presented at the hearing and upon any post-hearing briefs;

(2) A discussion of the facts;

(3) The conclusions drawn from the finding of facts; and

(4) A remedy consistent with those conclusions.

(c) The Personnel Board shall have no power to alter, amend or otherwise affect any City law, rule, regulation, policy or procedure.

(Code 2004, § 2-215; Code 2015, § 2-164; Ord. No. 2004-1-12, § 1, 2-9-2004; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-165. Judicial appeal of determination.

A complainant who does not prevail in the hearing described in Section 2-164 may appeal this decision to the Circuit Court of the City of Richmond for review. The complainant's petition for appeal shall set forth the alleged illegality of the action of the Personnel Board and the grounds thereof. The petition shall be filed within 30 calendar days of the complainant's receipt of the Personnel Board's decision as provided in Section 2-164. The complainant shall also deliver a copy of the petition to the Secretary of the Personnel Board, who shall file with the Circuit Court a copy of the records and documents considered by the Personnel Board. The Circuit Court shall review the record, documents and other materials filed by the Secretary of the Personnel Board. The Circuit Court may reverse or modify the decision of the Personnel Board, in whole or in part, if it finds upon review that the decision of the Personnel Board is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or the Circuit Court may affirm the decision of the Personnel Board.

(Code 2004, § 2-216; Code 2015, § 2-165; Ord. No. 2004-1-12, § 1, 2-9-2004)

Secs. 2-166—2-183. Reserved.

DIVISION 6. CITY AUDITOR*

***Charter reference—**City Auditor, § 4.18.

Cross reference—Audit Committee, § 2-1081 et seq.; finance, Ch. 12.

Sec. 2-184. City Auditor requests for audits and projects; office space; webpage.

(a) The members of the City Council shall make all requests for audits and projects to be performed by the City Auditor on a form prescribed by the Council Chief of Staff. The form shall require a fiscal impact statement for the audit or project, an indication of the priority level requested by the requesting Council member and an indication of the priority level assigned by the two City Council members on the audit committee or the City Council, as applicable. Each request shall be approved by the two City Council members on the Audit Committee. However, if one or both of the two Council members on the Audit Committee decline to approve the request, such

request may be appealed to the City Council, and the Council may, by a motion adopted during a meeting of the Council, approve the request.

(b) The Chief Administrative Officer shall ensure that the City Auditor is furnished with sufficient office space to house the staff who will be assigned to perform the functions of the City Auditor.

(c) The Department of Information Technology shall maintain on the webpage of the Office of the City Auditor a subsidiary webpage entitled "reports issued" for the purpose of providing an internet location at which all audit reports issued since January 1, 2012, and all inspector general reports issued between January 1, 2012, and July 1, 2018, are electronically published for public review. The City Auditor shall furnish the Department of Information Technology with such information as may be necessary for the Department of Information Technology to ensure that the "reports issued" subsidiary webpage includes, for each audit report, the number of agreed-upon audit recommendations and the number of such recommendations that have been implemented, updated on a semiannual basis.

(Code 2004, § 2-221; Code 2015, § 2-184; Ord. No. 2005-29-38, § 1, 4-11-2005; Ord. No. 2006-324-2007-28, § 1, 2-12-2007; Ord. No. 2009-116-124, § 1, 6-22-2009; Ord. No. 2015-35, § 1, 1-11-2016; Ord. No. 2018-139, § 2, 5-14-2018)

Sec. 2-185. Service efforts and accomplishments.

(a) The City Auditor shall evaluate and monitor City operations in accordance with the service efforts and accomplishments performance measures and guidelines promulgated by the Governmental Accounting Standards Board.

(b) The City Auditor shall develop and shall, from time to time as necessary, amend the parameters governing such evaluation and monitoring. Such parameters shall include:

(1) Goals and objectives;

(2) Policies, mechanisms, and techniques for tracking and collecting data in a format compatible with the service efforts and accomplishments measures and guidelines;

(3) Timeframes;

(4) Reporting requirements; and

(5) Staff and funding requirements.

(c) The Chief Administrative Officer shall ensure that the City Auditor or his designees receive the full cooperation of all City agencies and departments in any activities undertaken pursuant to this section. Such cooperation shall include, but not be limited to:

(1) Implementing or otherwise incorporating into existing practices and procedures the policies, mechanisms, and techniques for tracking and collecting data in a format compatible with the service efforts and accomplishments measures and guidelines as specified by the City Auditor pursuant to subsection (b) of this section;

(2) Implementing any other policies or practices the City Auditor deems necessary to support data collection;

(3) Reporting the data collected under those policies, practices, mechanisms, and techniques;

(4) Producing other reports or data requested by the Auditor; and

(5) Designating those staff and other resources necessary to support activities related to production or implementation pursuant to this section.

(d) The City Auditor shall report to the Council not less than annually regarding activities and findings relative to the evaluation and monitoring performed pursuant to this section.

(Code 2004, § 2-222; Code 2015, § 2-185; Ord. No. 2006-324-2007-28, § 2, 2-12-2007)

Sec. 2-186. Periodic audits of City agencies required.

(a) *Purpose.* The purpose of this section is to ensure that the City, through its City Auditor, conducts periodic audits of City boards, commissions, departments and other agencies in accordance with the City Auditor's responsibilities under Sections 4.16 and 4.18 of the City Charter.

(b) *Applicability.* This section applies to any board, commission, department, office or other agency of the City, by whatever name called, and any bureau, division or other portion thereof.

(c) *Requirements.* All boards, commissions, departments, offices or other agencies of the City, by whatever name called, and any bureaus, divisions or other portions thereof shall be subject to periodic audits by the City Auditor. For purposes of such audits, the City Auditor shall have access to any and all records or employees of such entities on demand and without notice. In consultation with the Audit Committee, the City Auditor shall establish the schedules necessary to perform audits of all such entities on a routine basis. When the City Auditor requests in writing access to records of such an entity for purposes of either an audit or an investigation pursuant to Division 7 of this article, the entity shall provide the City Auditor with such access by the end of the deadline specified in the City Auditor's request. If the entity believes that this deadline does not afford the entity a reasonably sufficient period of time within which to provide the City Auditor with access to the requested records, the entity may within 24 hours of the City Auditor's request for records request in writing to the City Auditor an extension of the deadline, which extension the City Auditor shall not unreasonably deny. The entity shall notify the Chief Administrative Officer of the City Auditor's request, the deadline for the compliance request, and the extension requested, if any. The Chief Administrative Officer shall be responsible for assuring the entity's compliance with the City Auditor's request within a reasonable amount of time. When the City Auditor requests in writing access to employees of such an entity for interviews for purposes of either an audit or an investigation pursuant to Division 7 of this article, no supervisor of the employee or any other City officer or employee shall restrict the City Auditor's access to such employee for such an interview or shall have any right to attend the interview.

(d) *Penalty.* Any person subject to this section that denies the City Auditor the right to conduct periodic audits of its finances, operations and expenditures of City-provided monies on demand and without notice, or causes or permits such denial, shall be guilty of a Class 3 misdemeanor.

(Code 2004, § 2-223; Code 2015, § 2-186; Ord. No. 2007-288-256, § 1, 11-12-2007; Ord. No. 2011-166-180, § 1, 11-28-2011)

Sec. 2-187. Audits of recipients of City funds.

(a) *Purpose.* The purpose of this section is to ensure that the City, through its City Auditor, conducts periodic audits of non-City recipients of City funds in accordance with the City Auditor's responsibilities under Sections 4.16 and 4.18 of the City Charter.

(b) *Applicability.* This section applies to any person or other legal entity that is not the City of Richmond or one of its boards, commissions, departments or other agencies subject to audit by the City Auditor pursuant to Section 2-186 but that receives monies from the City pursuant to direct appropriations as part of the City's annual appropriation ordinances or amendments thereto.

(c) *Requirement.* Any person or other legal entity subject to this section shall, as a condition of receiving monies from the City, be subject to periodic audits of its finances and expenditures of such City monies by the City Auditor on demand and without notice. This requirement shall apply regardless of whether identical or similar provisions appear in any appropriation ordinance or any agreement pursuant to which such monies are provided to such person or other legal entity.

(d) *Penalty.* Any person or other legal entity subject to this section that denies the City Auditor the right to conduct periodic audits of its finances and expenditures of City-provided monies on demand and without notice, or causes or permits such denial, shall be guilty of a Class 3 misdemeanor and shall be deemed ineligible to receive grants or other direct appropriations of City monies for a period of five years.

(Code 2004, § 2-224; Code 2015, § 2-187; Ord. No. 2007-288-256, § 1, 11-12-2007)

Sec. 2-188. Role in information technology projects.

(a) *Purpose*. The purpose of this section is to ensure that the City Auditor is represented without decision-making authority in the implementation of new information technology or upgrades to existing information technology used by one or more City agencies for the purpose of enabling the City Auditor to make recommendations during the implementation process concerning internal controls and other matters relating to the efficiency and effectiveness of the information technology that is the subject of the implementation.

(b) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings

ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agency means an organizational unit of the City identified as a department or other type of organizational unit in an annual budget of the City.

Implementation team means a group of City employees and employees of a City contractor, either or both, responsible for day-to-day work on a project.

Leadership committee means a group of senior administrative or executive employees established to oversee a project.

Project means a planned undertaking by the Chief Administrative Officer or the subordinates thereof, or both, to implement a system or one or more upgrades to a system for use by one or more City agencies with an estimated cost of at least $1,000,000.00.

System means any combination of computer hardware and software, either or both, that involves manipulation of data by a computer.

(c) *Duties.*

(1) *Chief Administrative Officer.* The Chief Administrative Officer shall cause the Director of Information Technology and any other officers or employees that report to the Chief Administrative Officer to include (i) the City Auditor or a subordinate thereof assigned by the City Auditor on each leadership committee and (ii) the City Auditor, a subordinate thereof, or the employee of a contractor for which the City Auditor is the sole using agency assigned by the City Auditor on each implementation team. The person included on each leadership committee and implementation team pursuant to the preceding sentence shall not possess a decision-making role on the leadership committee or implementation team but shall receive all written communications and records the content of which is received by a majority of the members of the leadership committee or implementation team and shall be invited to participate in all meetings of the leadership committee or implementation team.

(2) *City Auditor.* The City Auditor shall attend or shall assign a subordinate to attend all meetings of each leadership committee. The City Auditor shall attend or shall assign a subordinate or an employee of a contractor for which the City Auditor is the sole using agency to attend all meetings of each implementation team. The City Auditor and the subordinates and contractor's employees thereof shall maintain the confidentiality of all meetings attended, communications and records received or examined, and discussions engaged in as a result of membership on the leadership committee or implementation team to the extent required or permitted by law. The City Auditor or the subordinates or contractor's employees thereof shall make recommendations concerning the internal controls affected by the project and any other matters relating to the project that may be helpful in the successful implementation of the project.

(Code 2015, § 2-188; Ord. No. 2016-032, § 1, 3-14-2016)

Cross reference—Definitions generally, § 1-2.

Secs. 2-189—2-212. Reserved.

DIVISION 7. INSPECTOR GENERAL

Sec. 2-213. Generally.

(a) The Inspector General shall perform the functions described in section 4.19 of the City Charter and this division. The Inspector General and the employees thereof shall be known as the Office of the Inspector General.

(b) The Inspector General shall promulgate such rules and regulations as the Inspector General may deem necessary to discharge the functions imposed by Section 4.19 of the City Charter and this division; however, such rules and regulations shall be consistent with the ordinances of the City and the laws of the State.

(c) The Inspector General shall exercise control, management, and supervision over such employees and other resources as may be assigned to the Office of the Inspector General by the annual appropriation ordinances of the City.

(d) The Department of Information Technology shall maintain on the webpage of the Office of the Inspector General a subsidiary webpage entitled "reports issued" for the purpose of providing an internet location at which all inspector general reports issued since July 1, 2018, are electronically published for public review.

(Code 2015, § 2-213; Ord. No. 2018-139, § 1, 5-14-2018)

Sec. 2-214. Duties and powers.

(a) *Duties.* In connection with the conduct of such investigations as may be authorized by Code of Virginia, § 15.2-2511.2, the Inspector General shall have the following duties:

(1) To audit, inspect, evaluate and investigate the activities, records and individuals affiliated with contracts and procurements undertaken by the City and any other official act or function of the City.

(2) To conduct criminal, civil and administrative investigations relating to the municipal affairs of the City.

(3) To engage in prevention activities, including, but not limited to:

a. The review of legislation;

b. The review of rules, regulations, policies, procedures and transactions; and

c. Training and education.

(4) To refer matters for further civil, criminal and administrative action to appropriate administrative and prosecutorial agencies.

(5) To conduct joint investigations and projects with other oversight or law enforcement agencies.

(6) To issue public reports.

(b) *Powers.* In connection with the conduct of such investigations as may be authorized by Code of Virginia, § 15.2-2511.2, the Inspector General shall exercise the following powers:

(1) To order the attendance of any person as a witness and the production by any person of all relevant books and papers in accordance with Section 4.16 of the City Charter.

(2) To exercise special conservator of the peace powers to the extent authorized by and obtained pursuant to State law.

(3) To maintain the confidentiality of records in its possession to the extent permitted by State law.

(Code 2015, § 2-214; Ord. No. 2018-139, § 1, 5-14-2018)

Sec. 2-215. Qualifications.

The Inspector General's qualifications shall include, at a minimum, a demonstrated ability in accounting, auditing, financial analysis, law enforcement, management analysis, public administration, investigation, or criminal justice administration. The Inspector General may require that any employees of the Inspector General possess similar qualifications and obtain special conservator of the peace powers under State law as a condition of their employment.

(Code 2015, § 2-215; Ord. No. 2018-139, § 1, 5-14-2018)

Sec. 2-216. Obstruction of inspector general investigation.

Any employee with a supervisory role within a City department or other agency who obstructs or causes the obstruction of the Inspector General or the employees thereof in the performance or exercise of their duties and powers pursuant to Section 2-214 by denying the Inspector General or the employees thereof, when not required by law to so deny, reasonable access to information shall be subject to disciplinary action up to and including termination by such employee's appointing authority.

(Code 2015, § 2-216; Ord. No. 2018-139, § 1, 5-14-2018)

Secs. 2-217—2-238. Reserved.

ARTICLE IV. DEPARTMENTS*

***Charter reference—**Authority of Council to create, etc., departments, § 4.02(b); Department of Finance, § 8.01; Department of Public Utilities, § 13.01.

Cross reference—District Health Department, § 15-1.

DIVISION 1. GENERALLY

Secs. 2-239—2-269. Reserved.

DIVISION 2. DEPARTMENT OF POLICE*

***Cross reference**—Emergency services, Ch. 10.

State law reference—Qualifications and training of police, Code of Virginia, § 15.2-1705 et seq.

Sec. 2-270. Created; responsibilities; powers and duties.

(a) There shall be a Department of Police which shall be responsible for the following:

(1) Preservation of the public peace.

(2) Prevention of crime.

(3) Apprehension of criminals.

(4) Protection of the rights of persons and property.

(5) Enforcement of the laws of the Commonwealth, the ordinances of the City and all rules and regulations made in accordance therewith.

(b) The Department of Police shall be organized as may be provided by ordinance. It shall be headed by the Chief of Police. The Chief of Police and the other members of the police force of the City shall have all the powers and duties of police officers as provided by the general laws of the Commonwealth.

(Code 1993, § 2-165; Code 2004, § 2-271; Code 2015, § 2-270; Ord. No. 2014-59-97, § 4, 5-27-2014)

Sec. 2-271. General powers and duties of Chief.

The Chief of Police shall have general management and control of the Department of Police, including such bureaus, divisions, and other units of the Department as may be established. The Chief shall, subject to applicable personnel policies established by ordinance, appoint and remove all employees of the Department and shall have such other powers and duties as may be assigned to the Chief.

(Code 1993, § 2-166; Code 2004, § 2-272; Code 2015, § 2-271)

Sec. 2-272. Specific powers and duties of Chief.

(a) The Chief of Police shall assign all members of the Department of Police to their respective posts, shifts, details and duties.

(b) The Chief shall make rules and regulations in conformity with the Charter and City ordinances concerning the following:

(1) The operation of the Department;

(2) The conduct of the officers and employees of the Department;

(3) The uniforms, arms and other equipment of the officers and employees;

(4) The training of the officers and employees; and

(5) The penalties to be imposed for infractions of such rules and regulations.

(c) The Chief of Police shall be responsible for the efficiency, discipline and good conduct of the Department.

(d) Orders of the Chief Administrative Officer relating to the Department of Police shall be transmitted in all cases through the Chief of Police or, in the Chief's absence from the City or incapacity, through an officer of the Department designated by the Chief as Acting Chief.

(e) Disobedience to the lawful commands of the Chief of Police or violation of the rules and regulations made by the Chief shall be grounds for removal or other disciplinary action as provided in such rules and regulations, subject to applicable personnel policies established by ordinance.

(Code 1993, § 2-167; Code 2004, § 2-273; Code 2015, § 2-272; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-273. Fees and allowances.

The regular members of the police force and the special police shall receive all fees and allowances prescribed by law arising out of the exercise of their powers and duties, which shall be collected by the Chief of Police and paid into the City treasury. However, witness fees allowed for attendance upon the courts of record may be paid to and retained by such members as individuals.

(Code 1993, § 2-169; Code 2004, § 2-275; Code 2015, § 2-273)

Sec. 2-274. Auxiliary police force.

(a) *Establishment.* The Chief of Police is authorized to establish, equip and maintain an auxiliary police force as he deems necessary. The Chief of Police, with the approval of the Chief Administrative Officer, shall make rules and regulations concerning the operation of the auxiliary police officers, their uniforms, arms, other equipment and training.

(b) *Powers and authority.*

(1) Auxiliary police officers shall have the powers, authority and immunities of full-time sworn law enforcement officers as long as such members have met the training requirements established by the Virginia Department of Criminal Justice Services and the Department of Police and subject to any limitations set out in policies or directives issued under subsection (b)(2) of this section.

(2) The Chief of Police shall develop written policies and directives specifying the scope of auxiliary police officer duties, the manner in which such officers shall be utilized and any limitations on their authority.

(c) *Appointment.* The Chief of Police may appoint as auxiliary police officers as many persons as may be deemed necessary not to exceed 150 in number. The Chief of Police further may revoke the appointment of an auxiliary police officer at any time.

(d) *Training.* The Chief of Police shall prescribe and implement application, screening, testing and background investigation procedures applicable to auxiliary police officers. All auxiliary police officers must successfully meet the hiring criteria and successfully complete the training requirements prescribed by the Chief of Police.

(e) *Compensation.* Auxiliary police officers shall serve without compensation and shall be deemed to be volunteers for, and not employees of, the City. The Chief Administrative Officer may obtain insurance providing benefits for auxiliary police officers in the event they suffer an accidental death or dismemberment during the course and scope of their duties.

(f) *Indemnification.* The liability, if any, of the City to indemnify auxiliary police officers for personal injuries or property damage they may cause as a result of acts or omissions occurring within the course and scope of their duties as auxiliary police officers shall be as defined in the City's self-insurance program.

(g) *Calling auxiliary police into service.* The Chief of Police may, at his discretion, call auxiliary police officers into service to aid and assist regular sworn law enforcement officers in the performance of their duties.

(h) *Activities beyond City boundaries.* Auxiliary police officers shall not act outside the boundaries of the City, except when called upon to protect property of the City located beyond its boundaries or when acting in response to a police mutual aid agreement.

(Code 2004, § 2-276; Code 2015, § 2-274; Ord. No. 2004-366-358, § 1, 12-13-2004)

State law reference—Auxiliary police forces, Code of Virginia, § 15.2-1731 et seq.

Secs. 2-275—2-296. Reserved.

DIVISION 3. DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 2-297. Created; composition.

There shall be a Department of Economic Development which shall consist of a Director of Economic Development and such officers and employees organized into such bureaus, divisions and other units as may be provided by ordinance or by the Director consistent therewith.

(Code 1993, § 2-171; Code 2004, § 2-301; Code 2015, § 2-297; Ord. No. 2006-134-105, § 1, 5-8-2006; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2018-078, § 1, 5-14-2018)

Sec. 2-298. Functions.

The Department of Economic Development shall be responsible for the following:

(1) Developing and staffing an overall economic development strategy for the City;

(2) Promoting business development and expansion;

(3) Providing technical assistance to emerging businesses;

(4) Identifying investment opportunities;

(5) Staffing the Economic Development Authority;

(6) Administering contracts relative to economic development initiatives;

(7) Serving as a regranting agency;

(8) Marketing the City relative to new business ventures;

(9) Supervising and coordinating the work and activities relating to the acquisition and disposal of certain real estate by and for the City as may be required by the Chief Administrative Officer;

(10) Encouraging and promoting economic development within the City through cooperation with other governmental and private economic development organizations;

(11) Developing the comprehensive economic development plan pursuant to Section 2-1373;

(12) Developing the economic development implementation strategy pursuant to Section 2-1374; and

(13) Such other powers and duties as may be assigned to the Department by law or ordinance.

(Code 1993, § 2-172; Code 2004, § 2-302; Code 2015, § 2-298; Ord. No. 2006-134-105, § 1, 5-8-2006; Ord. No. 2006-204-247, § 1, 10-9-2006; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2015-240-236, § 2, 12-14-2015; Ord. No. 2016-090, § 1, 3-28-2016; Ord. No. 2018-078, § 1, 5-14-2018)

Sec. 2-299. Qualifications of Director.

The head of the Department of Economic Development shall be the Director of Economic Development. The Director shall be a person trained and experienced in business, public administration, finance or related areas.

(Code 1993, § 2-173; Code 2004, § 2-303; Code 2015, § 2-299; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2018-078, § 1, 5-14-2018)

Sec. 2-300. Appointment, powers and duties of Director.

(a) The Director of Economic Development shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer.

(b) The Director of Economic Development shall have general management and control of the Department of Economic Development and its units. The Director shall appoint and remove all officers and employees of the Department, subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the function of the Department.

(c) To the fullest extent permitted by law and as authorized by the Board of Directors, the Director of Economic Development shall act as Executive Director of the Economic Development Authority. It is the intent of the Council that this subsection supersede the provisions of Ordinance No. 72-169-178 to the extent that the two may conflict.

(Code 1993, § 2-174; Code 2004, § 2-304; Code 2015, § 2-300; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-204-247, § 1, 10-9-2006; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2018-078, § 1, 5-14-2018; Ord. No. 2018-201, § 1, 9-10-2018)

Sec. 2-301. Definitions.

For purposes of Sections 2-301 through 2-304, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Economic development project means an undertaking involving (i) a City expenditure or grant of at least $5,000,000.00 or with a value of at least ten percent of the initial estimate of the total project cost, the pledge of a moral obligation or other financial guarantee by the City, or the conveyance of City-owned real estate with an assessed value of $200,000.00 or greater, (ii) any one or more expenditures or contributions from funds not provided by the City in connection with the undertaking made or to be made by any one or more private entities, political subdivisions of the Commonwealth other than the City, or other legal entities owned or controlled by one or more political subdivisions, or any combination thereof, the total value of which is at least $3,000,000.00, and (iii) a requirement for the Council's approval to authorize the execution of a cooperation agreement, development agreement, or other contract between the City and one or more separate political subdivisions of the Commonwealth, any other legal entity owned or controlled by one or more political subdivisions, or one or more private entities in order to facilitate the construction of improvements to real property in the City of Richmond. The term "economic development project" shall not be construed to include ancillary undertakings that are associated with, but are not contained in or addressed by, cooperation agreements, development agreements, or other contracts between the City and one or more separate political subdivisions of the Commonwealth or one or more private entities, or to include projects where the only City funds involved are grants or loans of the Enterprise Zone program, Commercial Area Revitalization Effort (i.e., CARE and Extra-Care) programs, Community Development Block Grant funds, Housing Opportunities Made Equal Investment Partnership funds, Emergency Solutions Grant funds, or Housing Opportunities for Persons with AIDS funds to eligible recipients.

Economic impact statement means a written report containing analysis and estimates of the effect of a proposed economic development project in the City of Richmond on the creation or loss of employment and business opportunities within the City of Richmond.

Fiscal impact statement means a written report containing analysis of the estimated public service costs and the increase or decrease of revenues to the City associated with a proposed economic development project.

(Code 2015, § 2-301; Ord. No. 2015-144-154, § 1, 7-27-2015; Ord. No. 2016-091, § 1, 9-26-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 2-302. Fiscal and economic impact statements required.

Upon introduction to the Council of each ordinance authorizing an economic development project, there shall be provided to the Council and the City Clerk a fiscal impact statement and an economic impact statement. For any amendments for any such ordinance, at the time of the proposal of any such amendment, there shall be provided to the Council and the City Clerk a revised fiscal impact statement and a revised economic impact statement reflecting such amendments. The patron of any such ordinance or any amendments to any such ordinance shall identify in writing to which ordinance or to which amendments to any such ordinance each fiscal impact statement or economic impact statement applies. The City Clerk, upon receipt of a fiscal impact statement or economic impact statement shall publish, as applicable, such fiscal impact statement or economic impact statement on the City's website with each such ordinance or any amendments to any such ordinance to which the fiscal impact statement or economic impact statement applies. If either the fiscal impact statement or the economic impact statement required by this section is not submitted at the time of introduction of any ordinance authorizing an economic development project, or if either the revised fiscal impact statement or the revised economic impact statement required by this section is not submitted at the time that any amendments to any such ordinance are proposed, the Council shall delay consideration of the proposed ordinance or the proposed amendments until at least two weeks after the fiscal impact statement, the economic impact statement, the revised fiscal impact statement or the revised economic impact statement, as applicable, is provided to the Council and the City Clerk.

(Code 2015, § 2-302; Ord. No. 2015-144-154, § 1, 7-27-2015; Ord. No. 2017-034, § 1, 3-27-2017)

Sec. 2-303. Content of fiscal impact statements.

The fiscal impact statements and the revised fiscal impact statements required by Section 2-302 shall include, at a minimum, all of the following:

(a) The sources of information, assumptions and methodologies used to reach the conclusions set forth in the fiscal impact statement.

(b) A debt capacity schedule, if debt is a funding mechanism. In addition, the debt capacity schedule shall show the City's current debt capacity and how the City's current debt capacity is expected to change if the Council approves the proposed ordinance to which the fiscal impact statement relates for adoption or amendment.

(c) A comparison of funding and financing options available, including, but not limited to, expenditures from City funds, the issuance of general obligation bonds, and the issuance of revenue bonds.

(d) A detailed cost analysis, including, but not limited to, costs to the City and private funding, and a listing of the amount, value and source, as applicable, of each public and private investment, including, but not limited to, any property values of any real estate transferred, incentives provided, or infrastructure improvements made to facilitate the economic development project.

(e) Projected revenue and expenditure estimates attributable to the City, as a result of the proposed ordinance for adoption or amendment, if it is approved, covering at least the next ten fiscal years, including, but not limited to, debt repayment, new tax revenue, ownership, management, and maintenance costs, and additional service delivery costs for police and fire protection services and refuse collection services.

(f) Subsequent actions that may affect future revenue and expenditures if the proposed ordinance authorizes spending, including, but not limited to, the City's full fiscal obligation, ownership, management and maintenance.

(g) A description of any variables that may affect revenue and cost estimates.

(h) An estimate of the staff time and staff costs needed to implement the proposed ordinance.

(i) An explanation of how the addition of new staff, if any, and responsibilities would increase costs and affect other duties.

(j) Ranges of revenue or expenditures that are uncertain or difficult to project.

(k) If it is determined that the proposed ordinance, or any proposed amendments thereto, is not likely to have a fiscal impact, the basis for such a determination.

(Code 2015, § 2-303; Ord. No. 2015-144-154, § 1, 7-27-2015)

Sec. 2-304. Content of economic impact statements.

The economic impact statements and the revised economic impact statements required by Section 2-302 shall include, at a minimum, all of the following:

(a) The sources of information, assumptions and methodologies used to reach the conclusions set forth in the economic impact statement.

(b) An outline that lists all ordinances, resolutions or actions that are required to be completed related to and for the economic development project, with an associated timeline for each.

(c) A description of any variables that could affect economic impact estimates.

(d) The partnerships, corporations, businesses, boards, commissions, nonprofit organizations and other entities that the Mayor anticipates will be stakeholders in the economic development project to be authorized by the proposed ordinance and the level and nature of their involvement with the economic development project to be authorized by the proposed ordinance.

(e) Any anticipated positive or negative impact, if any, on employment.

(f) A range of economic impact factors that are uncertain or difficult to project.

(g) The number of permanent or temporary jobs that are anticipated to be created as a result of the economic development project to be authorized by the proposed ordinance.

(h) An analysis and timeline showing the projected revenues that are expected to be generated as a result of the City's expenditure of public funds, if the proposed ordinance is approved by the Council. The analysis and timeline shall include the benchmarks used to determine the revenue projections. An annual progress report concerning the actual revenues collected as a result of the City's expenditure of public funds and how such revenues exceeded, met or failed to meet the revenue projections and benchmarks shall be provided to the Council no later than December 31 of each year for ten years and as may be requested by the Council for any subsequent year beyond the initial ten years.

(i) An explanation of how the expenditure of any public funds by the City, as may be indicated in the proposed ordinance, complies with any guidelines, policies or best practices that help to achieve or maintain the goal of being a AAA bond rated locality.

(j) If it is determined that the proposed ordinance, or any proposed amendments thereto, is not likely to have an economic impact, the basis for such a determination.

(Code 2015, § 2-304; Ord. No. 2015-144-154, § 1, 7-27-2015)

Secs. 2-305—2-314. Reserved.

DIVISION 4. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT*

***Cross reference**—Housing, Ch. 16.

Sec. 2-315. Created, composition.

There shall be a Department of Housing and Community Development, which shall consist of a Director of Housing and Community Development and such officers and employees organized into such bureaus, divisions, and other units as may be provided by ordinance or by orders of the Director consistent therewith.

(Code 2015, § 2-311; Ord. No. 2018-078, § 2, 5-14-2018)

Sec. 2-316. Functions.

The Department of Housing and Community Development shall be responsible for the following:

(1) Developing and coordinating the implementation of a Citywide housing strategy;

(2) Administering contracts relative to housing and community development initiatives;

(3) Administering community development finance programs, including, but not limited to, programs under Title I (Community Development) of the United States Housing and Community Development Act of 1974, as amended, or any other Federal legislation or program under which the City may receive and use or administer the use of Federal funds for housing, community development or economic development purposes;

(4) Administering the City's Commercial Area Revitalization Effort and Extra Commercial Area Revitalization Effort programs and other special assistance loan programs;

(5) Administering the City's relationships with the Richmond Redevelopment and Housing Authority concerning public housing redevelopment and with the United States Department of Housing and Urban Development;

(6) Coordinating the City's efforts to facilitate and support residential development unrelated to United States Department of Housing and Urban Development programs;

(7) Serving as a regranting agency;

(8) Administering the operations of the Affordable Housing Trust Fund in accordance with Article III of Chapter 16; and

(9) Performing such other functions as may be assigned to the Department by law or ordinance.

(Code 2015, § 2-312; Ord. No. 2018-078, § 2, 5-14-2018)

Sec. 2-317. Director; Appointment, qualifications, powers and duties.

(a) The head of the Department of Housing and Community Development shall be the Director of Housing and Community Development. The Director shall be a person trained and experienced in business, public administration, finance, or related fields.

(b) The Director of Housing and Community Development shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer.

(c) The Director of Housing and Community Development shall have general management and control of the Department of Housing and Community Development and its units. The Director shall appoint and remove all officers and employees of the Department, subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the function of the Department.

(Code 2015, § 2-213; Ord. No. 2018-078, § 2, 5-14-2018)

Secs. 2-318—2-327. Reserved.

DIVISION 5. DEPARTMENT OF HUMAN RESOURCES

Sec. 2-328. Created; composition; duties.

(a) Pursuant to Code of Virginia, § 15.2-1131, there shall be a Department of Human Resources which shall consist of a Director of Human Resources and such other officers and employees as may be provided by ordinance.

(b) The Department of Human Resources shall be responsible for the administration of the City's personnel system as adopted and amended by ordinance.

(Code 1993, § 2-181; Code 2004, § 2-331; Code 2015, § 2-319)

Sec. 2-329. Director.

(a) The head of the Department of Human Resources shall be the Director of Human Resources, who shall be appointed for an indefinite term by the Chief Administrative Officer.

(b) The Director shall be a person trained and skilled in human resources and employee relations.

(c) The Director shall have general management and control of the Department and shall appoint and remove, subject to the City's personnel policies, rules and procedures, all officers and employees of the Department.

(d) The Director shall have the power to make rules and regulations consistent with the Charter, this Code and other City ordinances for the conduct of the Department's business and shall have such other powers and duties as shall be assigned by this division or by ordinance.

(Code 1993, § 2-182; Code 2004, § 2-332; Code 2015, § 2-320; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-330. Background checks.

(a) It is the intent of the City Council in adopting this section to comply with the provisions of Code of Virginia, §§ 15.2-1503.1, 15.2-1505.1 and 19.2-389 and Code of Virginia, Title 63.2, Ch. 17, Art. 3 (Code of Virginia, § 63.2-1719 et seq.) to enable the Chief Administrative Officer and the Director of Human Resources, in the interest of public welfare and safety, to require fingerprinting and to access State and national criminal history record information regarding applicants for certain positions, employees in certain positions and volunteers, as set forth in this section. The Director of Human Resources shall determine the type and scope of the criminal history record checks and any other background checks required for the affected positions.

(b) The Department of Human Resources shall require a criminal history record information investigation on all applicants for positions in the Department of Police and the Department of Fire and Emergency Services. Applicants shall include those for initial hire and those current employees who laterally transfer, promote, or demote to such a position, and volunteers.

(c) In addition to subsection (b) of this section, the Department of Human Resources shall require a criminal history record information investigation for finalists identified in the personnel selection and placement process for all applicants, including volunteers, in all departments that report to the Chief Administrative Officer; all

departments that report to the City Council; and all other departments that utilize the City's recruitment and payroll services, except for the Office of the Commonwealth's Attorney; the Circuit Court of the City of Richmond; the Adult Drug Court; the Office of the Sheriff; and the Office of the Treasurer. Nothing in this section shall be construed to prevent the agencies excepted from the requirements of the previous sentence from requiring and conducting a criminal history record information investigation. Applicants shall include finalists for initial hire and those current employees who laterally transfer, promote, or demote to such a position, and volunteers.

(d) The Director of Human Resources may require a periodic criminal history record information investigation and other background checks, and determine their type and scope, for current employees and volunteers when authorized by Federal or State law.

(e) Any applicant, employee, or volunteer described in this section shall, if required, submit to fingerprinting and provide personal descriptive information and any other necessary paperwork to be forwarded along with the fingerprints through the Virginia State Police Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining State and national criminal history record information regarding such applicant, employee, or volunteer.

(Code 2004, § 2-333; Code 2015, § 2-321; Ord. No. 2013-45-50, § 1, 4-8-2013)

Sec. 2-331. Employee compensation; biennial review.

It is a goal of the City that its employees be compensated at a rate comparable to the rate of compensation for employees in the public sector of the Richmond, VA Metropolitan Statistical Area in similar occupations. In determining comparability, consideration shall be given to the economic value of fringe benefits in addition to direct compensation. The Director of Human Resources shall conduct a biennial review to determine where discrepancies in compensation exist as between the City and the public sector of the Richmond, VA Metropolitan Statistical Area. The results of the review shall be reported to the Mayor and the City Council by November 1 of every other year with the results of the first review reported on November 1, 2015.

(Code 2004, § 2-334; Code 2015, § 2-322; Ord. No. 2014-229-2015-1, § 1, 1-12-2015)

Sec. 2-332. Quarterly vacancy and turnover rate reporting.

The Director of Human Resources shall submit to the Council Chief of Staff on the 15th day of each April, July, October, and January in an electronic format approved by the Council Chief of Staff a report for the immediately preceding three months that contains the following information:

(1) Vacancy and turnover rates for the entire City government and for each department or agency.

(2) A list, organized by department or agency, of all current vacant positions in that department or agency with the following information for each:

a. The position number.

b. The position title.

c. Whether the position is full-time, part-time, or temporary.

d. The date on which the position became vacant.

e. The total compensation, including salary, benefits, and any other form of compensation, of the position at the time the position became vacant.

f. The estimated vacancy savings for the position year-to-date for the current fiscal year.

(Code 2015, § 2-323; Ord. No. 2016-260, § 1, 12-12-2016)

Secs. 2-333—2-347. Reserved.

DIVISION 6. DISTRICT HEALTH DEPARTMENT*

***Cross reference—**Health, Ch. 15; functions of District Health Department, § 15-1.

Sec. 2-348. Created.

There shall be a District Health Department headed by a Director appointed pursuant to Code of Virginia, §

32.1-31.

(Code 1993, § 2-184; Code 2004, § 2-361; Code 2015, § 2-348)

Sec. 2-349. Powers and duties of Director.

(a) The District Health Director shall have, subject to the laws of the Commonwealth relating to public health, general management and control of the several bureaus, divisions and other units of the District Health Department, including the appointment and removal, subject to applicable personnel policies established by ordinance, of all officers and employees of the Department and the making of rules and regulations, consistent with the Charter and City ordinances, for the conduct of the Department's business.

(b) The District Health Director shall further have all the powers and duties with respect to the preservation of the public health which are or may be conferred or imposed on municipal boards of health and health officers by the laws of the Commonwealth, by the State Board of Medicine, and by the State Commissioner of Health, as well as all the powers and duties conferred or imposed on the Director by the Charter and City ordinances. The Director shall have power to make rules and regulations for the preservation of the public health, not inconsistent with the laws of the Commonwealth and City ordinances, which shall have the force of law. The penalties for the violation of any such rules and regulations shall be fixed by ordinance.

(Code 1993, § 2-187; Code 2004, § 2-364; Code 2015, § 2-349; Ord. No. 2005-143-120, § 1, 6-13-2005)

Cross reference—Additional functions of District Health Director, § 15-1.

Secs. 2-350—2-371. Reserved.

DIVISION 7. DEPARTMENT OF FIRE AND EMERGENCY SERVICES*

***Cross reference—**Emergency services, Ch. 10; fire prevention and protection, Ch. 13.

Sec. 2-372. Created; composition; responsibilities.

(a) There shall be a Department of Fire and Emergency Services which shall consist of the Chief of Fire and Emergency Services and such other officers and employees of such ranks and grades as may be established by ordinance.

(b) The Department of Fire and Emergency Services shall be responsible for the protection from fire of life and property within the City.

(Code 1993, § 2-191; Code 2004, § 2-391; Code 2015, § 2-372)

Sec. 2-373. Powers and duties of Chief.

(a) The head of the Department of Fire and Emergency Services shall be the Chief of Fire and Emergency Services.

(b) The Chief of Fire and Emergency Services shall:

(1) Be in direct command of the Department.

(2) Assign all members of the Department to their respective posts, shifts, details and duties.

(3) Make rules and regulations in conformity with the Charter and City ordinances concerning the following:

a. The operation of the Department;

b. The conduct of the officers and employees of the Department;

c. The uniforms, equipment and training of the officers and employees; and

d. The penalties to be imposed for infractions of such rules and regulations.

(4) Be responsible for the efficiency, discipline and good conduct of the Department.

(c) Orders of the Chief Administrative Officer relating to the Department of Fire and Emergency Services shall be transmitted in all cases through the Chief or, in the Chief's absence from the City or incapacity, through an officer of the Department designated by the Chief as Acting Chief.

(d) Disobedience of the lawful commands of the Chief of Fire and Emergency Services or violation of the rules and regulations made by the Chief shall be grounds for removal or other disciplinary action as provided in such rules and regulations, subject to applicable personnel policies established by ordinance.

(Code 1993, § 2-192; Code 2004, § 2-392; Code 2015, § 2-373; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-374. Fire prevention.

It shall be the duty of the Chief of Fire and Emergency Services to secure the enforcement of all laws and ordinances relating to fire prevention and fire safety and to issue from time to time regulations having the force of law for the purpose of implementing such laws and ordinances. The penalty for violation of such rules and regulations shall be as provided by ordinance.

(Code 1993, § 2-193; Code 2004, § 2-393; Code 2015, § 2-374)

Sec. 2-375. Emergency management—Generally.

In order to enable the City to respond effectively to emergencies, the Department of Fire and Emergency Services shall be responsible for the following functions:

(1) Planning, preparing for and mitigating emergencies;

(2) Identifying and protecting critical infrastructure and key assets;

(3) Educating the public on emergency preparedness;

(4) Coordinating the City's response to and recovery from emergencies;

(5) Providing responders with information and resources; and

(6) Obtaining funding and other aid to ensure that the City is prepared to respond to and is able to recover from emergencies.

(Code 2004, § 2-394; Code 2015, § 2-375; Ord. No. 2010-24-32, § 2, 2-22-2010)

Sec. 2-376. Emergency management—Coordinator.

(a) *Appointment and reporting.* Pursuant to Code of Virginia, § 44-146.19, the Mayor, as the Director of Emergency Management, shall appoint the Coordinator of Emergency Management with the consent of the City Council. The Coordinator shall report to the Mayor or, if and when so directed by the Mayor, to the Chief Administrative Officer.

(b) *General powers and duties.* The Coordinator shall have general management and control of the office and its units. The Coordinator shall appoint and remove all officers and employees of the office subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the City Charter and City ordinances for the conduct of the functions of the Office.

(c) *Emergency powers and duties.* The Coordinator shall have those powers afforded to and perform those duties imposed upon local coordinators of emergency management by the Commonwealth of Virginia Emergency Services and Disaster Law of 2000, Code of Virginia, § 44-146.13 et seq., and shall assist the Mayor in exercising those powers afforded to and performing those duties imposed upon local directors of emergency management by such law.

(Code 2004, § 2-395; Code 2015, § 2-376; Ord. No. 2010-24-32, § 2, 2-22-2010)

Sec. 2-377. Emergency management—Deputy Director.

The Mayor, as the Director of Emergency Management, may appoint any officer or employee of the City to serve as Deputy Director of Emergency Management. In the absence of the Mayor, the Deputy Director of Emergency Management shall act as a substitute for the Mayor in carrying out the Mayor's role as Director of Emergency Management for purposes of Code of Virginia, § 44-146.21 and for all other purposes.

(Code 2004, § 2-396; Code 2015, § 2-377; Ord. No. 2010-24-32, § 2, 2-22-2010)

Secs. 2-378—2-397. Reserved.

DIVISION 8. OFFICE OF ANIMAL CARE AND CONTROL*

***Cross reference**—Animals, Ch. 4.

Sec. 2-398. Created; duties; composition.

There shall be an Office of Animal Care and Control. The Office shall be responsible for animal care and control activities in the City and shall have such other duties and powers as may be assigned by ordinance or by the Chief Administrative Officer in accordance therewith. The Office shall consist of a Director and other officers and employees. The Director shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer or the designee thereof.

(Code 2004, § 2-425; Code 2015, § 2-398; Ord. No. 2010-21-67, § 4, 4-26-2010; Ord. No. 2012-58-37, § 1, 4-9-2012)

Cross reference—Animal Control Officer, § 4-52.

Secs. 2-399—2-424. Reserved.

DIVISION 9. DEPARTMENT OF PUBLIC WORKS

Sec. 2-425. Created; composition.

The Department of Public Works shall consist of a Director and such bureaus, divisions, and other units as may be provided by the Charter, by ordinance, or by the orders of the Director consistent therewith.

(Code 1993, § 2-197; Code 2004, § 2-451; Code 2015, § 2-425)

Sec. 2-426. Director.

The head of the Department of Public Works shall be the Director of Public Works. The Director shall have general management and control of the Department and, subject to the applicable personnel policies adopted by ordinance, shall appoint and remove all officers and employees of the Department. The Director shall have the power to make rules and regulations consistent with the Charter, this Code and other City ordinances for the conduct of the Department's business and shall have such other powers and duties as shall be assigned by this division or by ordinance.

(Code 1993, § 2-198; Code 2004, § 2-452; Code 2015, § 2-426)

Cross reference—Director of Public Works to manage certain harbor and port facilities, § 20-19.

Sec. 2-427. Duties.

The Department of Public Works shall be responsible for:

(1) The making of such surveys, reports, maps, drawings, plans, specifications and estimates as may be requested from time to time by the Council, the Mayor or the Chief Administrative Officer or the head of any department, or any board, commission or agency of the City;

(2) The custody of all maps or plans of the City or any part thereof;

(3) The supervision of the execution and performance of all contracts for capital improvement projects, except those prepared under the authority of the School Board or the Department of Public Utilities;

(4) The administration of studies, designs, construction, fit-out and occupancy associated with capital improvement projects and other development projects as directed;

(5) The control and regulation of public rights-of-way, including, but not limited to, the maintenance and cleaning of streets, alleys, other public ways, bridges, viaducts, subways and underpasses;

(6) The collection of garbage and other refuse and the maintenance and operation of facilities for the disposal of the same;

(7) The determination, in accordance with such ordinances on the subject as the Council may adopt, of the conditions under which street surfaces may be cut and the time within and manner in which such work shall be completed and restored;

(8) The maintenance of traffic signal equipment, regulatory and informational signage and pavement

markings;

(9) The maintenance of all public parks, grounds, playfields and playgrounds of the City both within and without its boundaries, except those under the jurisdiction of the School Board;

(10) The operation and maintenance of nurseries for flowers, vines, shrubs and trees for use in the public parks, grounds, streets, and ways of the City;

(11) The planting and care of all flowers, vines, shrubs and trees in the public parks, grounds, streets, and ways of the City;

(12) The sale or exchange of the surplus products of the City nurseries;

(13) The management of storerooms;

(14) The management and maintenance of all City-owned buildings, and the maintenance of the City's vehicle fleet, except those under the authority of the School Board or the Department of Public Utilities;

(15) The management of parking for the City;

(16) The provision of maintenance, heat, light and janitorial and other services for buildings owned or leased by the City, except those under the jurisdiction of the School Board; and

(17) Such other powers and duties as may be assigned.

(Code 1993, § 2-199; Code 2004, § 2-453; Code 2015, § 2-427; Ord. No. 2004-181-201, § 1, 7-26-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2008-28-48, § 1, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2014-59-97, § 3, 5-27-2014)

Cross reference—City-owned real estate, Ch. 8; Department of Public Works to be responsible for garbage collections, § 23-41.

Sec. 2-428. Traffic control.

(a) The Director of Public Works shall have the power to make rules, regulations and orders relating to traffic, the power for which is conferred to local authorities by the Code of Virginia, Title 46.2 or any other general law of the commonwealth, including the power to make rules, regulations and orders concerning the establishment of signs and signals, and the exclusion from any street or public way of the following:

(1) Parking;

(2) Traffic movement in more than one direction; and

(3) Trucks and other commercial vehicles, except for the purpose of receiving loads or making deliveries. However, such orders, rules and regulations shall not conflict with the laws of the Commonwealth or City ordinances. Penalties for the violations of any of such orders, rules or regulations shall be fixed by ordinance.

(b) The Director of Public Works shall make continuing studies of traffic conditions in the City and the approaches thereto, with special reference to prevention of congestion and accidents, the provision of parking facilities and the solution of other problems incident to traffic. The director shall report all new regulations to the Chief of Police.

(c) The Council shall not adopt any ordinance regulating traffic or establishing or altering the routes of public transportation systems until the ordinance has been referred to the department of public works for study and its report thereon filed with the City Clerk. However, if no such report is filed within 60 days after such reference, the Council may proceed to act on such ordinance.

(d) Notwithstanding any other provision of this section to the contrary, prior to the authorization of the installation of any bicycle boulevard, the Director of Public Works shall cause a study to be conducted that results in recommendations concerning appropriate traffic measures, if any, for the right-of-way in which the bicycle boulevard is to be installed and shall cause a report containing the results of such study to be delivered to the City Clerk, who shall distribute the report to each member of the City Council. For purposes of this subsection, the term "bicycle boulevard" means a street that meets the definition of a bicycle boulevard set forth in the most current edition of either the AASHTO Guide for the Development of Bicycle Facilities published by the American

Association of State Highway and Transportation Officials or the NACTO Urban Bikeway Design Guide published by the National Association of City Transportation Officials, regardless of the terminology used by the City to describe that street.

(Code 1993, § 2-200; Code 2004, § 2-454; Code 2015, § 2-428; Ord. No. 2015-50-73, § 1, 5-11-2015)

Cross reference—Traffic and vehicles, Ch. 27.

Secs. 2-429—2-454. Reserved.

DIVISION 10. DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW*

***Cross reference—**Buildings and building regulations, Ch. 5; floodplain management, erosion and sediment control, and drainage, Ch. 14; subdivision of land, Ch. 25; zoning, Ch. 30.

State law reference—Local planning, Code of Virginia, § 15.2-2200 et seq.

Sec. 2-455. Created; composition.

There shall be a Department of Planning and Development Review which shall consist of a Director of Planning and Development Review and such other officers and employees as may be provided by ordinance.

(Code 1993, § 2-201; Code 2004, § 2-481; Code 2015, § 2-455; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 2-456. Qualifications and duties of Director.

(a) The head of the Department of Planning and Development Review shall be the Director of Planning and Development Review, who shall be appointed by the Chief Administrative Officer. The Director shall be a person trained and skilled in City planning.

(b) The Director shall have general management and control of the Department and, subject to applicable personnel policies adopted by ordinance, shall appoint and remove all officers and employees of the Department. The Director shall have power to make rules and regulations consistent with the Charter, this Code and other City ordinances for the conduct of the Department's business and shall have such other powers and duties as shall be assigned by this division or by ordinance.

(Code 1993, § 2-202; Code 2004, § 2-482; Code 2015, § 2-456; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 2-457. Duties.

(a) The Department of Planning and Development Review shall be responsible for providing such staff services as may be required by the Planning Commission in:

(1) Making and adopting a master plan or any revisions thereof;

(2) Preserving historical landmarks;

(3) Controlling the design of works of art which are the property of the City;

(4) Suggesting the design of public structures and appurtenances;

(5) Preparing the program of capital improvement projects;

(6) Preparing and revising a comprehensive zoning plan;

(7) The consideration of subdivision of plats; and

(8) The performance of any other duties and functions assigned to the Planning Commission by Chapter 17 of the Charter or by ordinance.

(b) The Department shall be responsible for the following:

(1) The development and preparation of the City's urban renewal programs and the coordination of the various public and private agencies required for their execution;

(2) The preparation of the City's workable program and for its continuous updating to meet Federal requirements;

(3) Liaison with neighborhood and other private groups and coordinating the activities of such groups with those of the Department and with other City agencies and with each other;

(4) Preparation of detailed plans for neighborhood, district or community development;

(5) Assistance to the Richmond Redevelopment and Housing Authority, the School Board, the Library Board and other City agencies in current planning problems, including site locations, concept planning and character of exterior structure and landscape treatment, and for technical assistance to the Board of Zoning Appeals, the Commission of Architectural Review, the Urban Design Committee, and the Public Art Commission; and

(6) All programs and functions relating to land disturbance, building, electrical, mechanical, plumbing and elevator permits, inspections and certificates, floodplain management and enforcement of the Property Maintenance Code.

(c) The Department shall provide technical assistance to the Board of Building Code Appeals.

(Code 1993, § 2-203; Code 2004, § 2-483; Code 2015, § 2-457; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Secs. 2-458—2-482. Reserved.

DIVISION 11. DEPARTMENT OF PARKS, RECREATION AND COMMUNITY FACILITIES*

***Cross reference—**City-owned real estate, Ch. 8.

State law reference—Municipal parks, recreational facilities and playgrounds, Code of Virginia, § 15.2-1806 et seq.

Sec. 2-483. Created; composition.

There shall be a Department of Parks, Recreation and Community Facilities which shall consist of the Director of Parks, Recreation and Community Facilities and such other officers and employees organized into such bureaus, divisions and other units as may be provided by ordinance or by the orders of the Director consistent therewith.

(Code 1993, § 2-206; Code 2004, § 2-511; Code 2015, § 2-483)

Sec. 2-484. Functions.

(a) The Department of Parks, Recreation and Community Facilities shall be responsible for:

(1) Organizing and conducting recreation programs for all age groups in various parts of the City;

(2) Operating all public parks, grounds, playfields and playgrounds of the City both within and without its boundaries, except those under the jurisdiction of the School Board;

(3) Operating and maintaining all City cemeteries;

(4) Operating and maintaining all buildings, museums, gardens, monuments, lakes, swimming pools, restrooms, restaurants, refreshment stands and other facilities and establishments situated in the public parks and grounds under the jurisdiction of the Department;

(5) Promoting, sponsoring and managing public concerts, entertainments and other recreational activities; and

(6) Such other powers and duties as may be assigned to the Department by ordinance.

(b) The Department of Parks, Recreation and Community Facilities shall be permitted to utilize grounds and buildings under the jurisdiction of the School Board at such hours and on such days as they are not in use for other educational purposes, subject to such reasonable rules and regulations as the School Board may establish, and provided that the Department of Parks, Recreation and Community Facilities shall be responsible for any damage or extra expense arising from its use of the school grounds and buildings. When authorized by the Council and upon such terms and conditions as it may provide, the Department of Parks, Recreation and Community Facilities may lease concessions and other facilities in the public parks and grounds under its jurisdiction, fix and collect charges for use of its facilities and services, fix and collect charges for the admission to concerts, entertainments and other recreational activities sponsored by it.

(Code 1993, § 2-207; Code 2004, § 2-512; Code 2015, § 2-484; Ord. No. 2004-181-201, § 2, 7-26-2004)

Cross reference—Functions relative to cemeteries, §§ 7-2, 7-3.

Sec. 2-485. Qualifications of Director.

The head of the Department of Parks, Recreation and Community Facilities shall be the Director of Parks, Recreation and Community Facilities. The Director shall be a person trained and experienced in recreational activities, with experience in the administration of public recreation or parks.

(Code 1993, § 2-208; Code 2004, § 2-513; Code 2015, § 2-485)

Sec. 2-486. Powers and duties of Director.

The Director of Parks, Recreation and Community Facilities shall have general management and control of the several bureaus, divisions and other units of the Department of Parks, Recreation and Community Facilities. The Director shall appoint and remove, subject to applicable personnel policies established by ordinance, all officers and employees of the Department, and the Director shall have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the Department's business.

(Code 1993, § 2-209; Code 2004, § 2-514; Code 2015, § 2-486)

Secs. 2-487—2-510. Reserved.

DIVISION 12. DEPARTMENT OF INFORMATION TECHNOLOGY

Sec. 2-511. Created; composition.

There shall be a Department of Information Technology which shall consist of the Director of Information Technology and such bureaus, divisions and other units as may be provided by ordinance or by the orders of the Director consistent therewith.

(Code 1993, § 2-211; Code 2004, § 2-541; Code 2015, § 2-511)

Sec. 2-512. Director.

(a) The head of the Department of Information Technology shall be the Director of Information Technology.

(b) The Director shall have general management and control of the Department and, subject to applicable personnel policies adopted by ordinance, shall appoint and remove all officers and employees of the Department.

(c) The Director shall have the power to make rules and regulations consistent with the Charter, this Code and other City ordinances for the conduct of the Department's business and shall have such other powers and duties as shall be assigned by this division or by ordinance.

(Code 1993, § 2-212; Code 2004, § 2-542; Code 2015, § 2-512)

Sec. 2-513. Duties.

(a) The Department of Information Technology shall be responsible for providing centralized data processing and telecommunications services and the development of a central information system for use of all City agencies and for the public schools when requested to do so by the School Board.

(b) The Department of Information Technology shall be responsible for the management of mailing, messenger, duplicating or printing services.

(c) The Department of Information Technology shall be responsible for including on the main internet webpage of each department or other agency established pursuant to law a hyperlink to the "reports issued" subsidiary webpage on the main internet webpage of the Office of the City Auditor and ensuring that the hyperlinks on all such main internet webpages shall have the same name, which shall clearly indicate that the hyperlink will direct the viewer to audit reports and the status of the implementation of audit recommendations.

(Code 1993, § 2-213; Code 2004, § 2-543; Code 2015, § 2-513; Ord. No. 2010-21-67, § 2, 4-26, 2010; Ord. No. 2015-35, § 2, 1-11-2016)

Secs. 2-514—2-534. Reserved.

DIVISION 13. DEPARTMENT OF JUSTICE SERVICES

Sec. 2-535. Created; composition.

There shall be a Department of Justice Services which shall consist of a Director and such other officers and employees as may be provided by ordinance. The staff of the Department of Justice Services shall report to the Chief Administrative Officer.

(Code 1993, § 2-214; Code 2004, § 2-571; Code 2015, § 2-535; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-147-162, § 1, 6-12-2006)

Sec. 2-536. Director.

(a) The Director of the Department of Justice Services shall have general management and control of the Department, subject to applicable personnel policies adopted by ordinance, and shall appoint and remove all officers and employees of the Department.

(b) The Director shall have power to make rules and regulations consistent with the Charter, this Code and other City ordinances for the conduct of the Department's business and shall have such other powers and duties as shall be assigned by this division or by ordinance.

(Code 1993, § 2-215; Code 2004, § 2-572; Code 2015, § 2-536; Ord. No. 2006-147-162, § 1, 6-12-2006)

Sec. 2-537. Duties.

The Department of Justice Services shall be responsible for the administration and operation of the existing juvenile detention home, outreach detention program, stepping stone group home, family-oriented group home, and the intensive supervisions program, day treatment program, residential boot camp, and aftercare program. The Department shall also be responsible for the administration of any other service, program, detention home, group home or residential care facility for juveniles that may be established as part of the City's continuum of services for delinquent juveniles.

(Code 1993, § 2-216; Code 2004, § 2-573; Code 2015, § 2-537; Ord. No. 2006-147-162, § 1, 6-12-2006)

Secs. 2-538—2-567. Reserved.

DIVISION 14. DEPARTMENT OF SOCIAL SERVICES*

***State law reference—**Social services, Code of Virginia, § 63.2-100 et seq.

Sec. 2-568. Created; composition.

There shall be a Department of Social Services which shall consist of the Director of Social Services and such officers and employees organized in such bureaus, divisions and other units as may be provided by ordinance or the orders of the Director consistent therewith.

(Code 1993, § 2-217; Code 2004, § 2-601; Code 2015, § 2-568)

Sec. 2-569. Functions.

(a) The Department of Social Services shall be responsible for fulfilling the duties imposed by the laws of the Commonwealth relating to public assistance and relief of the poor, and such other powers and duties as may be assigned to the Department by law or ordinance.

(b) The Council may by ordinance transfer or assign the function of furnishing medical aid and care to the indigent at the institution known as the City Home or at such other similar institution as may be operated by the City for furnishing medical aid and care to the indigent from the District Health Department to the Department of Social Services.

(Code 1993, § 2-218; Code 2004, § 2-602; Code 2015, § 2-569)

Sec. 2-570. Director.

(a) *Qualifications.* The head of the Department of Social Services shall be the Director of Social Services. The Director shall be a person trained and experienced in social services administration.

(b) *Powers and duties.* The Director of Social Services shall have, subject to the laws of the Commonwealth relating to public assistance, general management and control of the several bureaus, divisions and other units of

the Department, including the appointment and removal, subject to applicable personnel policies established by ordinance, of all officers and employees of the Department and the making of rules and regulations, consistent with the Charter and the ordinances of the City, for the conduct of its business. In addition to the functions, powers and duties conferred and imposed upon the Department of Social Services by general laws of the Commonwealth, particularly included in Code of Virginia, Title 63.2 (Code of Virginia, § 63.2-100 et seq.), the Director of Social Services, except as otherwise provided in this Code, or in general or special law of the Commonwealth, shall have the general management, and control of the administration and enforcement of the functions and responsibilities set out in this division.

(c) *Designation as Social Services Board.* The Director of Social Services, pursuant to Code of Virginia, § 63.2-304, is designated as and shall constitute the City's Social Services Board, and the Director is authorized to exercise all the rights and powers set out in Code of Virginia, § 63.2-304.

(d) *Certain reports dispensed with.* The Director of Social Services shall dispense with furnishing to the City Council the reports provided for by Code of Virginia, § 63.2-315 until such time as the City Council shall require that furnishing such reports is to be resumed.

(Code 1993, §§ 2-219, 2-220, 24-1, 24-2; Code 2004, § 2-603; Code 2015, § 2-570)

Sec. 2-571. Social Services Advisory Board.

(a) *Composition; terms of members; Chairperson.* There is hereby established and created the Social Services Advisory Board of the City, pursuant to the provisions of Code of Virginia, § 63.2-305. The Advisory Board shall consist of nine members, all of whom shall be citizens of the City. The term of any such person shall expire at the end of four years, or as may be otherwise provided in Code of Virginia, § 63.2-305, or any Code section superseding Code of Virginia, § 63.2-305; provided, however, an appointment to fill a vacancy occurring during the term of any member of the Advisory Board shall be for the unexpired portion of the term. No person shall serve more than two successive full terms as a member of the Board. Annually, the Board shall choose one of its members as Chairperson of the Board to serve a term of one year, or to serve until such time as a successor is chosen and qualified. No member shall be chosen to serve as Chairperson more than three successive terms. The Director of Social Services shall be an ex officio member, without vote, of the Advisory Board.

(b) *Secretary.* The Director of Social Services shall assign an employee of the Department to serve as Secretary of the Social Services Advisory Board.

(c) *Meetings.* Scheduling of meetings of the Social Services Advisory Board shall conform to the provisions of Code of Virginia, § 63.2-305, which requires the Board to hold regular meetings at least bimonthly. In addition, the Board may hold special meetings at the call of the Chairperson or on the petition of at least five members of the Board.

(d) *Powers and duties.* The Social Services Advisory Board shall have the powers and duties provided by Code of Virginia, § 63.2-305(B).

(Code 1993, § 24-3; Code 2004, § 2-604; Code 2015, § 2-571)

Cross reference—Boards, commissions, committees and other agencies, § 2-767 et seq.

State law reference—Similar provisions, Code of Virginia, § 63.2-305.

Sec. 2-572. Reports of charitable or benevolent institutions receiving City funds.

All charitable or benevolent institutions, societies and corporations, including those established for scientific, literary or musical purposes, or the encouragement of agriculture and the mechanical arts that may now or hereafter receive appropriations from the City shall make such reports to the Director of Social Services as directed.

(Code 1993, § 24-4; Code 2004, § 2-605; Code 2015, § 2-572)

Secs. 2-573—2-592. Reserved.

DIVISION 15. DEPARTMENT OF PROCUREMENT SERVICES*

***Cross reference—**Public procurement, Ch. 21.

State law reference—Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.

Sec. 2-593. Created; composition.

There shall be a Department of Procurement Services which shall consist of a Director of Procurement Services and such officers and employees organized into such units as may be provided by ordinance and by the orders of the Director consistent therewith.

(Code 1993, § 2-220.1; Code 2004, § 2-631; Code 2015, § 2-593)

Sec. 2-594. Functions.

The Department of Procurement Services shall be responsible for the following:

(1) Supervising the purchase of all goods, services, insurance and construction needed by the City in accordance with Chapter 21, except those specifically delegated by ordinance to other agencies.

(2) Selling, trading or otherwise disposing of surplus goods belonging to the City.

(3) Establishing and maintaining programs for specifications development, contract administration, testing and inspection and acceptance in cooperation with the public agencies using the goods, services and construction.

(4) Purchasing or leasing for the use of the City and all of its departments, bureaus, boards, commissions, offices, agencies, Circuit Courts, District Courts, and City jail or jail farm, which are referred to as "using agencies," all supplies, materials, equipment and contractual services, including insurance and surety bonds, except the following:

a. Scientific instruments and equipment, medicines and drugs, legal and scientific books and periodicals, and printing of legal briefs;

b. Manuscripts, maps, charts, sheet music, phonograph records, books, pamphlets and periodicals, when ordered by any City library;

c. Such perishable articles as may be designated in the rules and regulations established by ordinance; and

d. Such supplies, materials, equipment and contractual services as may be required by any using agency in an emergency as defined in such rules and regulations.

(5) Purchasing or leasing for the use of the School Board all or such supplies, materials, equipment and contractual services, including insurance and surety bonds, as shall be required by the School Board when requested to do so by the Board.

(6) Performing such other duties as may be assigned to the Department by ordinance.

(Code 1993, § 2-220.2; Code 2004, § 2-632; Code 2015, § 2-594)

Sec. 2-595. Qualifications of Director.

The head of the Department of Procurement Services shall be the Director of Procurement Services. The Director shall be a person trained and experienced in business or public administration, finance, procurement, engineering or related areas and shall possess considerable knowledge of public procurement laws and regulations.

(Code 1993, § 2-220.3; Code 2004, § 2-633; Code 2015, § 2-595)

Sec. 2-596. Appointment, powers and duties of Director.

(a) The Director of Procurement Services shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer.

(b) The Director shall serve as the principal public purchasing official and chief contract officer for the City and shall have general management and control of the Department of Procurement Services and its units. The Director shall appoint and remove all officers and employees of the Department, subject to applicable personnel policies established by ordinance, and shall have the power to make rules, regulations and operational procedures consistent with the Charter and City ordinances for the conduct of the functions of the Department.

(c) The Director shall have the additional power and duty to:

(1) Establish, with the approval of the Chief Administrative Officer and after consultation with the heads of the using agencies concerned, and enforce standard specifications for all supplies, materials and equipment required by the City government, except such supplies, materials and equipment as are excluded by ordinance from the Director's authority to purchase or lease.

(2) Prescribe the time of making requisitions for such supplies, materials and equipment and the future period which such requisitions are to cover.

(3) Inspect or cause to be inspected all deliveries of such supplies, materials and equipment and cause tests to be made when necessary in order to determine their quality, quantity and conformance with specifications.

(4) Transfer to or between using agencies, sell or trade in supplies, materials and equipment determined by the Director, with the approval of the Chief Administrative Officer, after consultation with the head of the using agency concerned and in accordance with this Code, to be surplus, obsolete or unused.

(5) Maintain an adequate system of accounting for all property received and all property issued by the Department, in accordance with accepted principles of accounting for property and inventory control, and maintain such inventory of all movable property belonging to the City as may be required by the Council.

(6) Perform such duties with regard to the letting of contracts for public works or improvements.

The Director shall have such other powers and perform such other duties as may be provided by ordinance.

(d) With the approval of the Chief Administrative Officer, the Director may delegate the authority to purchase certain supplies, services, insurance or construction items to other City officials if such delegation is deemed necessary for the effective procurement of those items.

(Code 1993, § 2-220.4; Code 2004, § 2-634; Code 2015, § 2-596; Ord. No. 2004-360-330, § 1, 12-13-2004)

Secs. 2-597—2-625. Reserved.

DIVISION 16. DEPARTMENT OF BUDGET AND STRATEGIC PLANNING*

***Charter reference**—Budgets, Ch. 6.

Cross reference—Finance, Ch. 12.

Sec. 2-626. Created; composition.

There shall be a Department of Budget and Strategic Planning which shall consist of a Director of Budget and Strategic Planning and such officers and employees organized into such units as may be provided by ordinance and by the orders of the Director consistent therewith.

(Code 1993, § 2-220.5; Code 2004, § 2-661; Code 2015, § 2-626)

Sec. 2-627. Functions.

The Department of Budget and Strategic Planning shall be responsible for the following:

(1) Preparing and maintaining the biannual budget of the City;

(2) Preparing budget reports, analyses and reviews related to the efficient and cost-effective use of public resources; and

(3) Such other powers and duties as may be assigned to the Department by ordinance.

(Code 1993, § 2-220.6; Code 2004, § 2-662; Code 2015, § 2-627)

Sec. 2-628. Qualifications of Director.

The head of the Department of Budget and Strategic Planning shall be the Director of Budget and Strategic Planning. The Director shall be a person trained and experienced in business or public administration, finance or related areas and shall possess considerable knowledge of business or public administration.

(Code 1993, § 2-220.7; Code 2004, § 2-663; Code 2015, § 2-628)

Sec. 2-629. Appointment, powers and duties of Director.

(a) The Director of Budget and Strategic Planning shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer.

(b) The Director shall have general management and control of the Department of Budget and Strategic Planning and its units. The Director shall appoint and remove all officers and employees of the Department, subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the functions of the Department.

(Code 1993, § 2-220.8; Code 2004, § 2-664; Code 2015, § 2-629; Ord. No. 2004-360-330, § 1, 12-13-2004)

Secs. 2-630—2-646. Reserved.

DIVISION 17. OFFICE OF MINORITY BUSINESS DEVELOPMENT*

***Cross reference—**Minority Business Enterprise and Emerging Small Business Advisory Board, § 2-822 et seq.; human rights, Ch. 17; development assistance to minority business enterprises and emerging small businesses, § 21-194 et seq.; utilization of minority business enterprises and emerging small businesses, § 21-216 et seq.

Sec. 2-647. Created; composition; purpose; powers and duties.

There shall be an Office of Minority Business Development which shall consist of a Director and such other personnel as may be authorized by the City Council. The purpose of the Office is to serve as a catalyst for growth and development of the minority business community. The Office shall exercise all of the powers and perform all of the duties assigned to the Office by Chapter 21 or by other ordinances or laws. The Office shall not be considered a part of any other department or agency under the control of the Chief Administrative Officer and shall not be otherwise accountable to the head of any other department or agency under the control of the Chief Administrative Officer.

(Code 2004, § 2-790; Code 2015, § 2-647; Ord. No. 2006-134-105, § 2, 5-8-2006)

Sec. 2-648. Appointment and duties of the Director.

The Director of the Office of Minority Business Development shall be appointed by the Chief Administrative Officer for an indefinite term and shall be a member of the unclassified service. The Director shall have general management and control of the Office and, subject to applicable personnel policies adopted by ordinance, shall appoint and remove all officers and employees of the Office.

(Code 2004, § 2-791; Code 2015, § 2-648; Ord. No. 2006-134-105, § 2, 5-8-2006)

Secs. 2-649—2-669. Reserved.

DIVISION 18. DEPARTMENT OF LEGISLATIVE SERVICES

Sec. 2-670. Created; composition.

There shall be a Department of Legislative Services which shall consist of a Director of Legislative Services and such officers and employees organized into such units as may be provided by ordinance and by the orders of the Director consistent therewith.

(Code 2004, § 2-800; Code 2015, § 2-670; Ord. No. 2006-143-160, § 1, 6-12-2006)

Sec. 2-671. Functions.

The Department of Legislative Services shall be responsible for the following:

(1) Performing research and interacting with the City Attorney for legal assistance on behalf of City Council members;

(2) Preparing preliminary drafts of ordinances, resolutions and amendments on behalf of City Council members for submission to the City Attorney;

(3) Conducting studies and providing research and analysis relevant to subjects of proposed legislation;

(4) Providing administrative support to City Council standing committees and other Council-established

boards, commissions and committees;

(5) Developing lobbying strategies to promote Council priorities; and

(6) Such other powers and duties as may be assigned to the Department by ordinance.

(Code 2004, § 2-801; Code 2015, § 2-671; Ord. No. 2006-143-160, § 1, 6-12-2006)

Sec. 2-672. Qualifications of Director.

The head of the Department of Legislative Services shall be the Director of Legislative Services. The Director shall be a person with substantial public management experience.

(Code 2004, § 2-802; Code 2015, § 2-672; Ord. No. 2006-143-160, § 1, 6-12-2006)

Sec. 2-673. Appointment, powers and duties of Director.

(a) The Director of Legislative Services shall be appointed for an indefinite term by the Council Chief of Staff, subject to the approval of the City Council, and shall report to the Council Chief of Staff.

(b) The Director shall have general management and control of the Department of Legislative Services and its units. The Director shall appoint and remove all officers and employees of the Department, subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the City Charter and City ordinances for the conduct of the functions of the Department.

(Code 2004, § 2-803; Code 2015, § 2-673; Ord. No. 2006-143-160, § 1, 6-12-2006)

Secs. 2-674—2-704. Reserved.

DIVISION 19. OFFICE OF THE DEPUTY CHIEF ADMINISTRATIVE OFFICER FOR HUMAN SERVICES

Sec. 2-705. Created; composition.

There shall be an Office of the Deputy Chief Administrative Officer for Human Services, which shall consist of the Deputy Chief Administrative Officer for Human Services and such other officers and employees as may be assigned by ordinance or by the Chief Administrative Officer.

(Code 2004, § 2-810; Code 2015, § 2-705; Ord. No. 2006-154-170, § 1, 6-26-2006)

Sec. 2-706. Functions.

The Office of the Deputy Chief Administrative Officer for human services shall be responsible for supervising and coordinating all work and activities relating to the City's departments that provide human services, as designated by the Chief Administrative Officer, and shall have such other powers and duties as may be assigned by ordinance or by the Chief Administrative Officer.

(Code 2004, § 2-811; Code 2015, § 2-706; Ord. No. 2006-154-170, § 1, 6-26-2006)

Sec. 2-707. Qualifications and duties of Director.

(a) The Deputy Chief Administrative Officer for Human Services shall be appointed for an indefinite term by the Chief Administrative Officer. The Deputy Chief Administrative Officer for Human Services shall be a person trained and experienced in public administration, public policy, business administration, human services or a related field.

(b) The Deputy Chief Administrative Officer for Human Services shall:

(1) Have the general management and control of the Office;

(2) Appoint and remove, pursuant to applicable personnel policies established by ordinance, all officers and employees of the Office; and

(3) Have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the functions of the Office.

(Code 2004, § 2-812; Code 2015, § 2-707; Ord. No. 2006-154-170, § 1, 6-26-2006)

Secs. 2-708—2-727. Reserved.

DIVISION 20. DEPARTMENT OF EMERGENCY COMMUNICATIONS*

***Cross reference—**Emergency services, Ch. 10.

Sec. 2-728. Created, composition.

There shall be a Department of Emergency Communications, which shall be headed by the Director of Emergency Communications and shall consist of such officers and employees organized into such units as may be provided by ordinance or by the orders of the Director of Emergency Communications consistent with this division. The Department of Emergency Communications shall be designated as the public safety answering point (PSAP) for the E-911 telephone system and is charged with the appropriate routing of those E-911 calls received. The Department shall also be responsible for (i) the planning for, operation, maintenance and coordination of all emergency communications systems, as defined in Section 2-729(a), for the City, (ii) the control and management of all communications towers or sites owned or controlled by the City, and (iii) all functions of the City's radio shop, including, but not necessarily limited to, the installation in vehicles of equipment as defined in Section 2-729(a).

(Code 2004, § 2-820; Code 2015, § 2-728; Ord. No. 2014-59-97, § 2, 5-27-2014; Ord. No. 2017-123, § 1, 7-24-2017)

Sec. 2-729. Certain emergency communications agreements; fees.

(a) As used in this section, the following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agreement means a written agreement between the City and an external subscriber concerning the use of an emergency communications system or the installation, maintenance, or repair of equipment.

Department means the Department of Emergency Communications.

Director means the Director of Emergency Communications.

Emergency communications system means a radio, telephone, or similar system used primarily for communications related to emergencies or public safety for which Section 2-728 makes the Department responsible.

Equipment means auxiliary lights, cages for K-9 units, computers, radios, sirens, warning lights and other similar devices or improvements customarily installed on public safety or utility vehicles.

External subscriber means a governmental or nongovernmental organization that, in the judgment of the Director, should be allowed to use an emergency communications system or equipment for which Section 2-728 makes the Department responsible.

Internal subscriber means a City department or other agency that uses an emergency communications system or equipment for which Section 2-728 makes the Department responsible.

(b) The Chief Administrative Officer, on behalf of the City, may enter into and, from time to time, modify written agreements with organizations for the use of the City's emergency communications systems managed by the Department, provided that:

(1) Any costs that the agreement, and any modification thereof, requires the organization to pay are equal to the City's actual costs incurred in providing the equipment and services the agreement requires the City to provide;

(2) Any fees that the agreement, and any modification thereof, requires the organization to pay are in accordance with subsection (c) of this section;

(3) The Director has approved the agreement, and any modification thereof, as to terms; and

(4) The City Attorney or the designee thereof has approved the agreement, and any modification thereof, as to form.

(c) The Department shall charge external subscribers and internal subscribers the rates for the use of emergency communications systems and for the labor involved in installing, maintaining, and repairing equipment in vehicles. The monthly rate for external subscribers is $20.00, and the monthly rate for internal subscribers is $12.00. The labor rate for vehicle installation is $70.00 per hour.

(Code 2015, § 2-729; Ord. No. 2017-123, §§ 2, 3, 7-24-2017; Ord. No. 2018-082, § 1, 5-14-2018; Ord. No. 2019-060, § 1, 5-13-2019)

Secs. 2-730—2-740. Reserved.

DIVISION 21. OFFICE OF COMMUNITY WEALTH BUILDING

Sec. 2-741. Created, composition.

There shall be an Office of Community Wealth Building, which shall consist of a Director of Community Wealth Building and such other officers and employees organized into such units as may be provided by ordinance or by the orders of the Director consistent therewith.

(Code 2015, § 2-741; Ord. No. 2015-240-236, § 1, 12-14-2015)

Sec. 2-742. Functions.

The Office of Community Wealth Building shall perform the following functions:

(1) Developing, staffing, and coordinating the implementation of a comprehensive poverty reduction initiative for the City with the aim of improving access to educational and economic opportunities for residents of the City.

(2) Conducting research for and providing recommendations to the Mayor concerning strategies, investments, and policies likely to be effective in the reduction of poverty within the City.

(3) Developing a strategic vision for the City's comprehensive poverty reduction initiative and an associated system of performance measures for measuring progress in reducing poverty in the City.

(4) Providing regular reports to the City Council, the Maggie L. Walker Initiative Citizens Advisory Board, and the public on progress with regard to reducing poverty in the City.

(5) Administering funds appropriated by the City Council to the Office for the advancement of particular policy initiatives.

(6) Acting as the City's point of contact for non-departmental grant contracts designated, by ordinance or by the orders of the Chief Administrative Officer consistent therewith, as integral to the implementation of the City's comprehensive poverty reduction initiative.

(7) Coordinating the activities of City agencies in furtherance of the implementation of the City's comprehensive poverty reduction initiative and working with City agencies to develop and implement specific projects to reduce poverty.

(8) Encouraging and promoting the City's comprehensive poverty reduction initiative within the City of Richmond in cooperation with non-City agencies and other organizations that operate within the City.

(9) Coordinating workforce development issues and administration of workforce development programs.

(10) Coordinating community outreach and public education activities that pertain to poverty reduction and community wealth building.

(11) Exercising such other powers and performing such other duties as may be assigned to the Office by law.

(Code 2015, § 2-742; Ord. No. 2015-240-236, § 1, 12-14-2015)

Sec. 2-743. Appointment, qualifications, and powers of Director.

(a) *Appointment*. The Director of Community Wealth Building shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer.

(b) *Qualifications*. The Director of Community Wealth Building shall be a person trained and experienced in education, human development, community development, economic development, civic engagement, community planning, public administration, or related fields.

(c) *Powers*. The Director of Community Wealth Building shall have general management and control of the Office of Community Wealth Building and its units. The Director shall appoint and remove all officers and

employees of the Office, subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the functions of the Office.

(Code 2015, § 2-743; Ord. No. 2015-240-236, § 1, 12-14-2015)

Sec. 2-744. Duty of Mayor to submit reports on City's comprehensive poverty reduction initiative.

(a) *Oral presentation.* Effective January 1, 2016, the Mayor shall deliver annually, by no later than March 1 of each calendar year, an oral presentation to the City Council concerning the progress of the City's ongoing efforts to reduce poverty in the City of Richmond. This oral presentation shall take place during the portion of a regular meeting of the City Council known as the "formal meeting" and shall be distinct from any other formal or informal presentation the Mayor may make to the City Council or in any other public setting. The substance of the oral presentation shall be based on the substance of the written report described in subsection (b) of this section.

(b) *Written report.* At the same time as or prior to the oral presentation described in subsection (a) of this section, the Mayor shall submit to the members of both the City Council and the Maggie L. Walker Initiative Citizens Advisory Board a written report detailing the progress of initiatives in education, workforce development, economic development, transportation, and housing undertaken by the City for the purpose of reducing, alleviating, or ameliorating poverty, including, but not necessarily limited to, the activities and initiatives of the Office of Community Wealth Building. The Chief Administrative Officer shall make the written report publicly available on the City's website. The written report shall include the following elements:

(1) A system of metrics established to track long-term trends and changes in important policy areas that affect poverty.

(2) A statement concerning ongoing challenges and recommended policy steps to increase the effectiveness of the City's efforts to reduce poverty.

(3) The use of metrics and related methods of measurement as consistently as possible with previous reports, with clear explanations and justifications for any alterations in the metrics and related methods of measurement used.

(4) Trend data on the number and proportion of all persons living in poverty in the City, the number and proportion of children living in poverty in the City, and analysis of the impact of the City's poverty rate on the City's financial condition and creditworthiness.

(5) A summary of the current one-year and five-year strategic plans of the Office of Community Wealth Building to reduce poverty in the City.

(6) The signature of the Mayor.

(c) *Mid-year presentation.* Beginning with the year commencing on January 1, 2016, the Mayor or the designee thereof shall make an additional presentation to the City Council. The Mayor or the designee thereof shall make the presentation each year during the months of September or October at such regular or special meeting as may be designated by the President of the Council. The purpose of the presentation shall be to provide a mid-year update concerning the progress of the City's comprehensive poverty reduction initiative.

(Code 2015, § 2-744; Ord. No. 2015-240-236, § 1, 12-14-2015)

Secs. 2-745—2-753. Reserved.

DIVISION 22. DEPARTMENT OF CITIZEN SERVICE AND RESPONSE

Sec. 2-754. Created, composition.

There shall be a Department of Citizen Service and Response, which shall consist of a Director of Citizen Service and Response and such other officers and employees organized into such units as may be provided by ordinance or by the orders of the Director consistent therewith.

(Code 2015, § 2-751; Ord. No. 2018-077, § 1, 5-14-2018)

Sec. 2-755. Functions.

The Department of Citizen Service and Response shall perform the following functions:

(1) Developing, staffing, coordinating the implementation of, and overseeing all non-utility citizen services and response for citizens requesting non-emergency information or services from the City's departments other than the Department of Public Utilities.

(2) Developing, implementing, and administering measures and reports detailing the nature of citizen information and service requests, including responses provided by City departments other than the Department of Public Utilities fulfilling citizen requests for information and services.

(3) Gathering and analyzing citizen information and service request data to identify service trends and service delivery improvement opportunities for the City so that City services are proactive in meeting citizens' needs.

(4) Evaluating and implementing technologies that enhance the City's interaction with citizens requesting services or information from the City.

(5) Measuring, analyzing, and reporting on citizen satisfaction with City services.

(6) Overseeing and operating the City's 311 non-utility call center.

(Code 2015, § 2-752; Ord. No. 2018-077, § 1, 5-14-2018)

Sec. 2-756. Appointment, qualifications, and powers of Director.

(a) *Appointment.* The Director of Citizen Service and Response shall be appointed for an indefinite term by the Chief Administrative Officer and shall report to the Chief Administrative Officer.

(b) *Qualifications.* The Director of Citizen Service and Response shall be a person trained and experienced in mass communications, marketing, civic interaction and response, public administration, business, operations, or related fields.

(c) *Powers.* The Director of Citizen Service and Response shall have general management and control of the Department of Citizen Service and Response and its units. The Director shall appoint and remove all officers and employees of the Office, subject to applicable personnel policies established by ordinance, and shall have the power to make rules and regulations consistent with the Charter and City ordinances for the conduct of the functions of the Office.

(Code 2015, § 2-753; Ord. No. 2018-077, § 1, 5-14-2018)

Secs. 2-757—2-766. Reserved.

ARTICLE V. BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES*

***Charter reference—**Board members generally, §§ 4.14, 4.15; Human Rights Commission, § 2.04.1; City Planning Commission, § 17.02 et seq.; Board of Zoning Appeals, § 17.16 et seq.; School Board, § 20.01.

Cross reference—Social Services Advisory Board, § 2-571; Public Records Management Advisory Committee, § 2-1323; Board of Building Code Appeals, § 5-34 et seq.; Board of Fire Appeals, § 13-251 et seq.; Affordable Housing Trust Fund Oversight Board, § 16-80 et seq.; Public Library Board, § 18-29 et seq.; Board of Trustees of Richmond Retirement System generally, § 22-41 et seq.; Commission of Architectural Review, § 30-930.3; Urban Design Committee, § 30-940.3.

DIVISION 1. GENERALLY

Sec. 2-767. Definitions; eligibility of members to succeed themselves; term of members.

(a) *Definition.* For purposes of this division, the term "board or commission" means any of the boards, commissions or similar collegial bodies, however named, which are created by statute, ordinance, resolution or mayoral action and to which the City Council or the Mayor appoints some or all of the members. The term "board or commission" does not refer to an ad hoc committee or a standing committee of the City Council.

(b) *Eligibility of members to succeed themselves.* Notwithstanding any possible section in this Code to the contrary and unless otherwise provided by the statute, ordinance, resolution, mayoral action or other governing documents pursuant to which the board or commission is established, no citizen member of a board or commission, other than persons appointed by the Council to serve as members of the Capital Region Airport Commission or

nominated and elected to serve on the Board of Directors of the Greater Richmond Transit Company, shall be eligible for reappointment to the board or commission after a period of continuous service of eight years; provided, however, after serving the maximum number of permitted consecutive terms, a citizen member may be reappointed to the same board or commission after at least 365 days have elapsed since the date on which the citizen member's last term expired. This subsection shall not apply to a board or commission that is an authority pursuant to State law.

(c) *Term of members.* Unless otherwise specified by general law, ordinance or resolution, the term of office for the members of any board or commission the members of which are appointed by the Council shall be three years from the date of appointment.

(Code 1993, § 2-221; Code 2004, § 2-836; Code 2015, § 2-755; Ord. No. 2008-190-193, § 1, 9-8-2008; Ord. No. 2008-301-2009-2, § 1, 1-12-2009; Ord. No. 2011-131-131, § 4, 6-27-2011; Ord. No. 2014-111-84, § 2, 5-27-2014; Ord. No. 2017-143, § 1, 10-9-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 2-768. Removal of members; forfeiture of office.

(a) If any person appointed to membership upon a board or commission by the Council misses four consecutive regularly scheduled meetings of such board or commission or if the board or commission has less than four regularly scheduled meetings within a period of 12 scheduled months and any member of such board or commission fails to attend all such regularly scheduled meetings during a period exceeding 12 months in length, such member of any such board or commission shall be subject to removal from membership on such board or commission, and the Council may remove such member utilizing the procedure provided in Section 4.14 of the Charter or substantially similar procedure. If the information form provided by a member of a board or commission to the Council prior to the individual's appointment is materially false or misleading, that shall also be grounds for removal in the manner provided by law. Unless general law of the Commonwealth, the Charter or other special act of the General Assembly or the ordinance or resolution of the City provides specifically that a person appointed to a board or commission must reside in the City, be a voting citizen of the City, or contain other language of like purport, a person having a principal place of employment within the City may be appointed by the Council to serve on a board or commission.

(b) Any person who is appointed to membership on a board or commission after July 8, 1983, except those subject to Section 2-926(a) and who shall thereafter cease to maintain a permanent residence within the City or who terminates qualifying employment within the City shall thereby forfeit membership on the board or commission of which such person is a member.

(Code 1993, § 2-222; Code 2004, § 2-837; Code 2015, § 2-756; Ord. No. 2017-143, § 1, 10-9-2017)

Sec. 2-769. Payment of members attending meetings of Capital Region Airport Commission.

Pursuant to the permissive provisions of Chapter 380 of the Acts of Assembly of 1980, any person appointed by the City Council to membership on the Capital Region Airport Commission, including any member of the Council, shall be entitled to receive the sum of $250.00 per meeting attended as a representative of the City on such Commission. However, if any such member attends ten or more meetings of the Commission or any of its committees or subcommittees, such member shall be entitled to receive the aggregate amount of $3,000.00 for the year's attendance at such meetings.

(Code 1993, § 2-223; Code 2004, § 2-838; Code 2015, § 2-757)

Sec. 2-770. Payment to Commissioners attending meetings of Redevelopment and Housing Authority.

Pursuant to the permissive provisions of Code of Virginia, § 36-11.1:1, in any month in which a Commissioner of the Redevelopment and Housing Authority attends a regular scheduled meeting of the Commissioners of the Authority or a called meeting of such Commissioners, the Commissioner so attending such meeting shall be entitled to receive the sum of $150.00 for each meeting attended. However, the maximum amount a Commissioner shall be entitled to receive for meetings attended in any one month shall be $150.00, which payment shall be made from funds of the Authority. Such payment shall be in addition to any expenses as are paid to or reimbursed such Commissioner pursuant to State enabling legislation.

(Code 1993, § 2-224; Code 2004, § 2-839; Code 2015, § 2-758)

Sec. 2-771. Economic Development Authority; qualifications; compensation.

(a) *Created.* The Industrial Development Authority created by Ordinance No. 72-169-178, adopted August 28, 1972, is continued as the Economic Development Authority of the City of Richmond, Virginia, pursuant to the Industrial Development and Revenue Bond Act (Code of Virginia, § 15.2-4900 et seq.).

(b) *Qualifications.* Each Director of the Economic Development Authority shall be a resident of the City appointed in accordance with Code of Virginia, § 15.2-4904. Of the Authority's seven Directors, one shall be a member of the residential, commercial or mixed use development community, one shall be a member of the banking, lending or financial services community, one shall be a member of the Virginia State Bar, and one shall be a certified public accountant licensed by the State. The remaining Directors may but need not necessarily belong to one of the groups set forth in the previous sentence so long as their qualifications provide a positive benefit to the authority. Prior to taking the oath of office, each Director shall have completed a criminal background investigation that finds the Director has not been convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude or any felony or any misdemeanor involving possession of marijuana or any controlled substances. It is the intent of the Council that this subsection supersede the provisions of Ordinance No. 72-169-178 to the extent that the two may conflict.

(c) *Compensation.* Pursuant to the permissive provisions of Code of Virginia, § 15.2-4904(D), in any month in which a Director of the Authority attends a regular scheduled meeting or a special called meeting of the Directors of the Authority, the Director so attending such meeting shall be entitled to receive the sum of $50.00 for each meeting attended, which payment shall be made from funds of the Authority. Such payment shall be in addition to any expenses as are paid to or reimbursed such Director pursuant to State enabling legislation. Compensation for meetings shall not include committee meetings.

(Code 1993, § 2-226; Code 2004, § 2-840; Code 2015, § 2-759; Ord. No. 2006-204-247, § 1, 10-9-2006)

Sec. 2-772. Filing of statement of economic interests.

Any nonsalaried citizen members who are appointed by the Council to a board or commission and who receive monetary compensation either on a monthly basis or on a per-meeting basis shall file with the City Clerk, as a condition of assuming office, a disclosure form of their personal interests and such other information as is specified on the form set forth in Code of Virginia, § 2.2-3118, and thereafter shall file such form annually on or before January 15. Such appointments include, but are not limited to, those made by the Council to the following:

(1) The Capital Region Airport Commission;

(2) The City Planning Commission;

(3) The Greater Richmond Transit Company Committee;

(4) The Richmond Metropolitan Transportation Authority;

(5) The Richmond Redevelopment and Housing Authority; and

(6) The Richmond Retirement System.

(Code 1993, § 2-225; Code 2004, § 2-842; Code 2015, § 2-760; Ord. No. 2006-204-247, § 1, 10-9-2006; Ord. No. 2017-143, § 1, 10-9-2017)

State law reference—Disclosure by local government officers and employees, Code of Virginia, § 2.2-3115.

Sec. 2-773. Classification of boards and commissions; requirements to make reports.

(a) *Definition.* For purposes of this section, except for subsection (d) of this section, the term "board or commission" specifically includes authorities, corporations and non-City entities to which the Council or the Mayor appoints some or all of the members.

(b) *Classification.*

(1) Each board or commission shall be classified according to its respective level of authority as follows:

a. *Advisory.* A board or commission is classified as "advisory" if its purpose is to provide advice and

comment to the Council, the Mayor or any City agency.

b. *Policy.* A board or commission is classified as "policy" if its purpose is to promulgate public policies or regulations, adjudicate regulatory or statutory violations or make decisions binding on City agencies or members of the public, whether or not such decisions are subject to appeal.

c. *Supervisory.* A board or commission is classified as "supervisory" if its purpose is to be responsible for agency operations, including approving requests for appropriations, appointing an agency director who is subordinate to the board or commission and ensuring that the agency complies with all statutory directives and directives of the board or commission.

(2) Each board or commission established by the City after the effective date of the ordinance from which this section is derived shall be classified according to one of the three classifications in subsection (b)(1) of this section in the ordinance, resolution or mayoral action establishing the board or commission. For each board or commission existing as of the effective date of the ordinance from which this section is derived and for each board or commission established by a statute that does not classify such board or commission according to one of the three classifications in subsection (b)(1) of this section, the Council shall adopt, and may, from time to time, amend, a resolution classifying such boards or commissions according to one of the three classifications in subsection (b)(1) of this section. Notwithstanding the foregoing, for purposes of the reporting requirements imposed by subsection (c) of this section, all corporations and other non-City entities to the governing bodies of which the Council or the Mayor appoints one or more members and to which the City disburses funds, directly or indirectly, during the then-current fiscal year are classified as "advisory," provided that nothing in this section shall relieve any corporation or other non-City entity from the requirement to comply with any additional reporting requirements established by any other law or by any grant contract or similar contract between the City and such corporation or non-City entity.

(c) *Reporting.* Each board or commission shall make reports to a Council standing committee to be designated from time to time by resolution. Such report shall be in such form and contain such substance as this subsection may require based on the classification of the board or commission and as the standing committee may require. The minimum reporting requirements of a board or commission based on the classification of that board or commission shall be as follows:

(1) *Advisory.* Each board or commission classified as "advisory" shall make an annual presentation to the standing committee to which the board or commission is assigned, including at least the following information:

a. Any proposed legislation on which the board or commission recommends that the City Council or the General Assembly act.

b. A list of all meeting dates of the board or commission during the preceding year.

c. Any other information requested by the standing committee to which the board or commission is assigned to report.

(2) *Policy.* Each board or commission classified as "policy" shall make an annual presentation to the standing committee to which the board or commission is assigned, including at least the following information:

a. Any proposed legislation on which the board or commission recommends that the City Council or the General Assembly act.

b. A list of all meeting dates of the board or commission during the preceding year.

c. Any other information requested by the standing committee to which the board or commission is assigned to report.

(3) *Supervisory.* Each board or commission classified as "supervisory" shall make:

a. An annual presentation to the standing committee to which the board or commission is assigned, including at least the following information:

1. Any proposed legislation on which the board or commission recommends that the City

Council or the General Assembly act.

2. A list of all meeting dates of the board or commission during the preceding year.

3. Any other information requested by the standing committee to which the board or commission is assigned to report.

b. A quarterly written report to the standing committee to which the board or commission is assigned within 30 days of the end of each quarter, including at least the following information:

1. A comparison of the actual expenditures with the budgeted expenditures of the board or commission.

2. A report on performance indicators that indicate how the board or commission performed during the quarter.

3. A list of dates and times when the board or commission met during the quarter.

4. Any operational or policy challenges that the board or commission requests the assistance of the Council, the Mayor, the Chief Administrative Officer or their appointees in addressing.

(d) *Additional reporting requirements.* In addition to any other reports required by this section or otherwise, each board or commission established by statute, ordinance, resolution, or mayoral action shall report the following information in writing to the Office of the City Clerk within 15 days after each meeting of the board or commission:

(1) The date, time, and location of the last meeting of the board or commission.

(2) A copy of the agenda of the last meeting of the board or commission.

(3) A copy of any minutes approved at the last meeting of the board or commission.

(4) A copy of the draft minutes, if not yet approved, of the last meeting of the board or commission.

(5) The date, time, and location of the next scheduled meeting of the board or commission.

(Code 2004, § 2-843; Code 2015, § 2-761; Ord. No. 2005-260-252, § 1, 11-28-2005; Ord. No. 2010-175-168, § 1, 9-27-2010; Ord. No. 2017-100, § 1, 6-12-2017; Ord. No. 2017-143, § 1, 10-9-2017)

Sec. 2-774. Boards and commissions required to meet.

Every board or commission to which the Council appoints all members shall meet at least one time in a 12-month period. Any such board or commission that does not meet at least once during a 12-month period may be subject to dissolution by ordinance or resolution. A board or commission created or continued pursuant to State or Federal law shall not be subject to dissolution for failure to comply with this section's requirements.

(Code 2004, § 2-844; Code 2015, § 2-762; Ord. No. 2007-140-103, § 1, 5-29-2007; Ord. No. 2017-143, § 1, 10-9-2017)

Sec. 2-775. Chief Administrative Officer to make certain appointments.

The Chief Administrative Officer shall be responsible for designating the City's technical representative and alternate technical representative on the Technical Advisory Committee of the Richmond Area Metropolitan Planning Organization.

(Code 2015, § 2-763; Ord. No. 2016-034, § 1, 3-14-2016)

Secs. 2-776—2-792. Reserved.

DIVISION 2. ADVISORY COMMITTEES

Sec. 2-793. Findings and purpose.

(a) The Council finds that there are numerous committees, boards, commissions, councils, and similar groups that have been established to advise officers and agencies in the executive and legislative branches of the City government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the City government.

(b) The Council further finds and declares that:

(1) The need for many existing advisory committees has not been adequately reviewed;

(2) New advisory committees should be established only upon a determination of necessity;

(3) Advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) Standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees; and

(5) The Council and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees.

(Code 2004, § 2-1081; Code 2015, § 2-793; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Sec. 2-794. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advisory committee.

(1) The term "advisory committee" means:

a. Any committee, board, commission, council, conference, panel, task force, or other similar group; or

b. Any subcommittee or other subgroup thereof;

which is established for the purpose of obtaining advice or recommendations for the Mayor, the Council or one or more agencies or officers of the City government.

(2) The term excludes:

a. Any entity that is composed wholly of full-time, or permanent part-time, officers or employees of the City government;

b. Any entity formed solely to undertake negotiations or deliberations that could be closed to the public pursuant to the Code of Virginia, § 2.2-3711; or

c. Any entity, all of the records of which would be exempt from public disclosure pursuant to the Code of Virginia, §§ 2.2-3705.1--2.2-3705.8.

(3) The term "advisory committee" shall not include neighborhood associations, civic associations, citizen groups, business organizations or any other entity that is not established by the Mayor or the Council but which provides input to the Mayor or members of the City Council on topics that affect their interests.

Agency means any department, bureau, division, board, commission, committee, office or agency of the City government.

(Code 2004, § 2-1082; Code 2015, § 2-794; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Cross reference—Definitions generally, § 1-2.

Sec. 2-795. Applicability; restrictions.

The provisions of this division or of any rule, order, or regulation promulgated under this division shall apply to advisory committees except to the extent that any ordinance establishing any such advisory committee specifically provides otherwise.

(Code 2004, § 2-1083; Code 2015, § 2-795; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Sec. 2-796. Establishing advisory committees; purpose; public notice.

(a) Advisory committees shall only be established by the Mayor via a writing submitted to the City Clerk or by the City Council via an ordinance. Any such writing or ordinance shall contain:

(1) The committee's official designation;

(2) The committee's objectives and the scope of its activity;

(3) The period of time necessary for the committee to carry out its purposes;

(4) The agency or official to whom the committee reports;

(5) The agency responsible for providing the necessary support for the committee;

(6) A description of the advisory committee's duties, and, if such duties are not solely advisory, a specification of the ordinance or statute granting the authority for such functions;

(7) The estimated annual operating costs in dollars and staff-hours for such advisory committee;

(8) The estimated number and frequency of committee meetings, and provisions governing the taking of minutes; and

(9) The committee's termination date.

(b) Unless otherwise specifically provided by ordinance, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the Mayor or the Council.

(c) Advisory committees shall be subject to the provisions of the Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.

(Code 2004, § 2-1084; Code 2015, § 2-796; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Sec. 2-797. Responsibilities of Council standing committees.

(a) Each standing committee of the Council shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed.

(b) In considering legislation establishing or authorizing the establishment of any advisory committee, each standing committee shall determine, and report such determination to the Council, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

(Code 2004, § 2-1085; Code 2015, § 2-797; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Sec. 2-798. Fiscal and administrative provisions; recordkeeping; audit; agency support services.

(a) For every advisory committee advising:

(1) The Mayor;

(2) A City agency; or

(3) A City official;

the Chief Administrative Officer shall arrange for the maintenance of records as will fully disclose the disposition of any public funds which may be at the disposal of its advisory committees and the nature and extent of their activities. For every advisory committee advising the Council, the Council Chief of Staff shall arrange for the maintenance of records as will fully disclose the disposition of any public funds which may be at the disposal of such advisory committees and the nature and extent of their activities. The City Auditor, or any authorized representatives thereof, shall have access, for the purpose of audit and examination, to any such records.

(b) The Chief Administrative Officer shall be responsible for arranging for the provision of support services to every advisory committee advising:

(1) The Mayor;

(2) A City agency; or

(3) A City official;

unless the establishing letter provides otherwise. The Council Chief of Staff shall be responsible for arranging for

the provision of support services to every advisory committee advising the Council, unless the establishing ordinance provides otherwise.

(Code 2004, § 2-1086; Code 2015, § 2-798; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Sec. 2-799. Reports and background papers; depository.

Every advisory committee established by the Mayor or the City Council shall file with the City Clerk two copies of any final report made to the Mayor or the City Council, together with any background papers prepared by any consultants relied upon by such advisory committee. The City Clerk shall establish a depository for such reports and papers where they shall be available to public inspection and use.

(Code 2004, § 2-1087; Code 2015, § 2-799; Ord. No. 2006-325-2007-54, § 1, 3-26-2007)

Secs. 2-800—2-821. Reserved.

DIVISION 3. MINORITY BUSINESS ENTERPRISE AND EMERGING SMALL BUSINESS ADVISORY BOARD*

***Cross reference—**Office of Minority Business Development, § 2-647 et seq.; human rights, Ch. 17; development assistance to minority business enterprises and emerging small businesses, § 21-194 et seq.; utilization of minority business enterprises and emerging small businesses for City contracts, § 21-216 et seq.

Sec. 2-822. Created.

There is hereby created an advisory board of the City of Richmond with indefinite duration to be known as the Minority Business Enterprise and Emerging Small Business Advisory Board.

(Code 2004, § 2-871; Code 2015, § 2-822; Ord. No. 2011-130-142, § 1, 7-25-2011)

Sec. 2-823. Definitions.

For purposes of this division, the terms "minority business enterprise" and "emerging small business" shall have the meaning ascribed to those terms in Section 21-4.

(Code 2004, § 2-872; Code 2015, § 2-823; Ord. No. 2011-130-142, § 1, 7-25-2011)

Cross reference—Definitions generally, § 1-2.

Sec. 2-824. Composition; terms of office.

The Board shall be composed of nine members appointed by the Council. Of the nine members, five members shall be representatives of a minority business enterprise, two members shall be representatives of lenders or businesses other than a minority business enterprise, one member shall be a Section 3 contractor representative and one member shall be either an at-large resident of the City or a member of the Council. The Council shall nominate three members who shall be representatives of a minority business enterprise, one member who shall be a representative of lenders or businesses other than a minority business enterprise and one member who shall be either an at-large resident of the City or a member of the Council. The Mayor shall nominate two members who shall be representatives of a minority business enterprise, one member who shall be a representative of lenders or businesses other than a minority business enterprise and one member who shall be a Section 3 contractor representative. In order to facilitate the staggering of terms of the members of the Board, of the members initially appointed, three members of the Board shall serve for terms of three years, three members of the Board shall serve for terms of two years and three members of the Board shall serve for terms of one year. Thereafter, all members shall be appointed for terms of three years. It is the intent of this section that, at all times, a majority of the Board shall be composed of representatives of minority business enterprises. Upon the expiration of a member's term of office, that member shall continue to hold office until the successor thereof is appointed and qualified. Any vacancy shall be filled for the unexpired term in the same manner as provided in this subsection. All other aspects of the Board and its membership not addressed in this division shall be governed by Article V, Division 1 of this chapter.

(Code 2004, § 2-873; Code 2015, § 2-824; Ord. No. 2011-130-142, § 1, 7-25-2011)

Sec. 2-825. Duties and functions.

(a) The Board shall provide advice and recommendations to the City Council and the Mayor on matters

concerning the development of strategies, policies and operational procedures to achieve the City's goals to expand and improve recruitment, retention and contracting in all businesses and industries for minority business enterprises and emerging small businesses in the City and provide a report of the Board's advice and recommendations upon the request of either the City Council or the Mayor. For purposes of Section 2-773, the Board is classified as "advisory." The Office of the Chief Administrative Officer shall provide the necessary support for the Board. The Board shall meet no less than four times annually and shall keep minutes in accordance with the requirements of the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.). The Board may adopt rules of procedure or bylaws not inconsistent with this division or other applicable law to govern the conduct of its meetings and affairs. The Board may elect from its membership a Chairperson and other officers it deems necessary in accordance with its rules of procedure or bylaws.

(b) The Board shall make recommendations concerning the following:

(1) A minority business enterprise and emerging small business strategic plan that addresses the ways in which the City's procurement policies regarding contract goals may be reformed and expansion of business opportunities for minority business enterprises and emerging small businesses beyond the construction industry.

(2) Lending and finance options for minority business enterprises and emerging small businesses to build investment capital and the feasibility of establishing an incentive fund to attract minority business enterprises and emerging small businesses to the City.

(3) A business recruitment strategy for minority business enterprises and emerging small businesses that addresses networking and marketing initiatives that bring new job opportunities, tax revenues, business and workforce development resources and regionally competitive businesses to the City.

(4) Performance evaluations and compliance monitoring for organizations receiving funds from the City and the imposition of requirements that such organizations present business plans, quarterly performance reports and express goals for minority business enterprise participation.

(5) Improvements to the Office of Minority Business Development strategy designed to advance the annual minority business and emerging small business goals of the City and a schedule pursuant to which the Office of Minority Business Development shall report to the Council and the Mayor concerning such office's progress.

(Code 2004, § 2-874; Code 2015, § 2-825; Ord. No. 2011-130-142, § 1, 7-25-2011)

Secs. 2-826—2-843. Reserved.

DIVISION 4. CITIZEN ADVISORY COMMISSION ON ALTERNATIVES TO INCARCERATION

Sec. 2-844. Created.

There is hereby created an advisory commission of the City of Richmond with indefinite duration to be known as the Citizen Advisory Commission on Alternatives to Incarceration.

(Code 2004, § 2-906; Code 2015, § 2-844; Ord. No. 2012-16-196, § 1, 11-26-2012)

Sec. 2-845. Composition; terms of office.

(a) *Composition.* The Commission shall be composed of 15 members whom the Council shall appoint. Of the 15 members, the Council shall nominate eight members and the Mayor shall nominate seven members. The members of the Commission, at least eight of whom shall be residents of the City, shall be representatives from any combination of the following categories, provided that no member shall be an employee of any correctional facility:

(1) Resident of a community within the City where correctional resident-based services, establishments providing alternatives to incarceration or correctional facilities are located.

(2) At-large resident of the City.

(3) Richmond public schools.

(4) Workforce development agency.

(5) Small minority business development organization.

(6) Technical educational institution.

(7) Higher educational institution.

(8) Law enforcement.

(9) State or local Department of Social Services.

(10) Administrator of a community-based corrections program.

(11) Faith-based community organization.

(12) Business community.

(13) Council member representing the district in which the Justice Center is located.

In addition to the 15 members appointed from the categories listed in this subsection, the Chief Administrative Officer, or the designee thereof, shall be a non-voting member of the Commission.

(b) *Terms of office.* The members of the Commission shall serve for terms of two years from the date of appointment. Upon the expiration of a member's term of office, that member shall continue to hold office until the successor thereof is appointed and qualified. Any vacancy shall be filled for the remainder of the unexpired term in the same manner as provided in this subsection. All other aspects of the Commission and its membership not addressed in this division shall be governed by Article V, Division 1 of this chapter.

(Code 2004, § 2-907; Code 2015, § 2-845; Ord. No. 2012-16-196, § 1, 11-26-2012)

Sec. 2-846. Duties and functions.

(a) The Commission shall provide advice and recommendations to the City Council and the Mayor, from the perspective of the residents of the City, concerning the factors affecting the reduction in population at the Justice Center and the external impact of the presence of the Justice Center, community-based service facilities and other establishments providing alternatives to incarceration on communities within the City and provide a report of the Commission's advice and recommendations upon the request of either the City Council or the Mayor. In particular, the Commission shall work with residents of communities within the City, the City administration, administrators of the Justice Center and organizations providing community-based services or alternatives to incarceration to address how correctional facilities, community-based service facilities and other establishments providing alternatives to incarceration within communities affect property values, real estate taxes, police and fire services and public safety. The Commission shall also monitor and assess performance indicators that measure the long-term benefits of alternatives to incarceration to the community and determine the effectiveness of correctional facilities, alternatives to incarceration and community-based service centers and programs. For purposes of Section 2-773, the Commission is classified as "advisory." The Office of the Chief Administrative Officer shall provide the necessary support for the Commission. The Commission shall meet no fewer than four times annually and shall keep minutes in accordance with the requirements of the Virginia Freedom of Information Act. The Commission may adopt rules of procedure or bylaws not inconsistent with this division or other applicable law to govern the conduct of its meetings and affairs. The Commission may elect from its membership a Chairperson and other officers it deems necessary in accordance with its rules of procedure or bylaws.

(b) The Commission shall make recommendations to the City Council and the Mayor concerning the following:

(1) Solutions to any problems within communities of the City related to property values, real estate taxes, police and fire services and public safety resulting from the presence of the Justice Center and community-based service facilities and other establishments providing alternatives to incarceration.

(2) The ways to establish inclusive, affordable housing that enhances the City's real property values, supports the public safety of the City and offers quality housing for all residents, including formerly incarcerated and vulnerable populations.

(3) Strategies to make the Justice Center an economic engine for the immediate and surrounding community and the City as a whole.

(4) Strategies to generate public support for alternatives to incarceration.

(5) The impact of the policies and practices of the City's criminal justice system on the incarceration rate at the Justice Center.

(6) Ways to communicate the mission and goals of the City's correctional services system to the public.

(7) Mechanisms to identify community service projects that are designed to reduce incarceration at the Justice Center and ensure the public safety of communities within the City.

(8) Community-based services and programs that are designed to improve public safety for the general public and reduce crime in communities of the City and reduce incarceration at the Justice Center.

(9) Ways to ensure effective communication and dissemination of information among the Commission, the City Council, the Mayor and the general public.

(10) The development of resources that are designed to benefit residents of the Justice Center and persons reentering the community after incarceration.

(11) The development of private business enterprises to provide employment to residents of the Justice Center and persons reentering the community after incarceration.

(12) Policies of the City's criminal justice system that affect the community.

(13) Interagency planning to avoid a disparity of community-based services facilities and alternative sentencing programs between communities.

(14) The funding necessary to implement and maintain the appropriate level of alternative incarceration services designed to meet the City's objective not to expand the Justice Center beyond 1,032 beds.

(15) The feasibility of creating a reserve fund to purchase and resell homes, which have not sold at fair market value due to the proximity of such homes to the Justice Center, in communities where resident-based services are provided and the communities surrounding the Justice Center.

(16) Methods to ensure that space within the Justice Center is reserved for persons incarcerated locally and that procedures are implemented to minimize the number of persons held for transport to other jurisdictions, including those held for the Commonwealth of Virginia.

(Code 2004, § 2-908; Code 2015, § 2-846; Ord. No. 2012-16-196, § 1, 11-26-2012)

Secs. 2-847—2-870. Reserved.

DIVISION 5. SAFE AND HEALTHY STREETS COMMISSION*

***Cross reference—**Traffic and vehicles, Ch. 27.

Sec. 2-871. Created.

There is hereby created an advisory commission of the City of Richmond with indefinite duration to be known as the Safe and Healthy Streets Commission.

(Code 2004, § 2-915; Code 2015, § 2-871; Ord. No. 2014-89-63, § 1, 4-28-2014; Ord. No. 2017-024, § 1, 4-10-2017)

Sec. 2-872. Composition; terms of office; duties and functions; reporting.

(a) *Composition.* The Commission shall be composed of 12 members as follows:

(1) A member of the Council.

(2) Four qualified voters of the City who hold no office of profit with the City.

(3) Three members with expertise in transportation safety.

(4) The Superintendent of the School Division of the City of Richmond.

(5) The commanding officer of the Traffic Division of the Department of Police.

(6) The Traffic Engineer of the City.

(7) The Director of Public Works.

(b) *Terms of office.* The Superintendent of the School Division of the City of Richmond, the commanding officer of the Traffic Division of the Department of Police, the Traffic Engineer of the City and the Director of Public Works shall serve as ex officio members of the Commission, and their designees may attend and vote in their stead. All other members of the Commission shall be appointed by the Council by resolution, shall serve for terms of three years, and may serve up to three successive full terms; provided that the member of the Council shall serve for a term coincident with such member's term as a member of the Council. Upon the expiration of a member's term of office, that member shall continue to hold office until the successor thereof is appointed and qualified. Any vacancy shall be filled for the remainder of the unexpired term in the same manner as provided in this subsection. All other aspects of the Commission and its membership not addressed in this division shall be governed by Article V, Division 1 of this chapter.

(c) *Duties and functions.*

(1) The Commission shall provide advice and recommendations to the Council concerning plans for the formulation of a highway safety program for the City and conduct periodic reviews of the operation and effect of such program. For purposes of Section 2-773, the Commission is classified as "advisory."

(2) The Office of the Chief Administrative Officer shall provide the necessary support for the Commission. The Commission shall meet no fewer than four times annually and shall keep minutes of its meetings in accordance with the requirements of the Virginia Freedom of Information Act. A majority of the members of the Commission shall constitute a quorum. The Commission may adopt rules of procedure or bylaws not inconsistent with this division or other applicable law to govern the conduct of its meetings and affairs. The Commission may elect from its membership a Chairperson and other officers it deems necessary in accordance with its rules of procedure or bylaws.

(d) *Reporting.* On an annual basis, the Commission shall provide the Council with recommendations concerning plans for the formulation of a highway safety program for the City and with the results of the periodic reviews of the operation and effect of such program it conducts in accordance with subsection (c) of this section.

(e) *Information on projects.* The Department of Public Works shall provide the Commission with information on transportation-related projects upon request therefor by the Commission.

(Code 2004, § 2-916; Code 2015, § 2-872; Ord. No. 2014-89-63, § 1, 4-28-2014; Ord. No. 2017-024, § 1, 4-10-2017)

Secs. 2-873—2-892. Reserved.

DIVISION 6. MAGGIE L. WALKER INITIATIVE CITIZENS ADVISORY BOARD

Sec. 2-893. Created.

There is hereby created an advisory board of the City of Richmond with indefinite duration to be known as the Maggie L. Walker Initiative Citizens Advisory Board.

(Code 2004, § 2-920; Code 2015, § 2-893; Ord. No. 2014-234-215, § 1, 12-8-2014)

Sec. 2-894. Composition; qualifications; terms of office; compensation.

(a) *Composition*. The Board shall be composed of 16 members, including seven members appointed by the Mayor, eight members appointed by the Council, and the Director of Community Wealth Building, who shall be a non-voting member. All appointments shall be otherwise governed by Sections 2-767 and 2-768.

(b) *Qualifications.*

(1) *Mayoral appointments*. The Mayor shall appoint members from each of the following categories:

a. Four persons who, at the time of appointment, reside in a City Council district within the City of Richmond with a poverty rate of at least 20 percent. At least one of the four persons shall, at the time of appointment, be a tenant of the Richmond Redevelopment and Housing Authority or a recipient of Section 8 housing vouchers from the Richmond Redevelopment and Housing Authority.

b. A representative of a service provider assisting low-income individuals or families.

c. A representative of a community organization or advocacy group with a primary focus on the reduction of poverty and who resides within the City of Richmond.

d. A person who resides within the City of Richmond.

(2) *Council appointments.* The Council shall appoint members from each of the following categories:

a. Four persons who, at the time of appointment, reside in a City Council district within the City of Richmond with a poverty rate of at least 20 percent. At least one of the four persons shall, at the time of appointment, be a tenant of the Richmond Redevelopment and Housing Authority or a recipient of Section 8 housing vouchers from the Richmond Redevelopment and Housing Authority.

b. A business owner or a representative of a business with a workforce made up of employees, the majority of whom reside in the City of Richmond.

c. A representative of a college or university located within the City of Richmond with expertise in studying poverty or in program evaluation.

d. A person who resides within the City of Richmond.

e. A member of the City Council, who shall be a non-voting member of the Board and shall serve as co-Chair.

(c) *Terms of office*. Of the voting members initially appointed, five members shall be appointed for a term of one year, five members shall be appointed for a term of two years and four members shall be appointed for a term of three years. Thereafter, voting members shall be appointed for terms of three years. However, the Director of Community Wealth Building shall serve as an ex officio member and the member of the City Council shall be appointed by resolution of the City Council in the same manner as appointments to standing committees of the City Council and shall be appointed for a term that shall expire as provided in such resolution. The members of the Board shall serve no more than two successive full terms; provided, however, that persons appointed to fill an unexpired term may serve two successive full terms upon completion of the unexpired term for which the person has been appointed. Members appointed pursuant to subsections (b)(1)a and (b)(2)a of this section who, after such appointment, no longer meet the qualifications specified therein may complete their full term and hold office until a qualified successor is appointed. All other aspects of the Board and its membership not addressed in this division shall be governed by Chapter 2, Article V, Division 1.

(d) *Compensation*. The voting members of the Board shall receive a per diem compensation of $50.00 for each meeting of the Board for which such members are actually engaged in the duties of the Board; provided, however, that no member shall receive more than $600.00 per fiscal year for compensation.

(Code 2004, § 2-921; Code 2015, § 2-894; Ord. No. 2014-234-215, § 1, 12-8-2014; Ord. No. 2015-240-236, § 3, 12-14-2015; Ord. No. 2016-189, § 1, 9-12-2016; Ord. No. 2019-196, § 1, 9-9-2019)

Sec. 2-895. Duties and functions; reporting.

(a) *Duties and functions.* The Board shall monitor, evaluate and provide advice and recommendations to the Mayor, the City Council, and the Director of Community Wealth Building concerning the City's poverty reduction and wealth building initiatives and the City's progress towards achieving its poverty reduction objectives. For purposes of Section 2-773, the Board is classified as "advisory." In addition, the Board shall fulfill the following duties and functions:

(1) Provide advice to the Director of Community Wealth Building concerning the City's comprehensive poverty reduction and community wealth building efforts.

(2) Review reports and evaluations concerning the progress of the City's poverty reduction and community wealth building initiatives and compliance with the objectives of, funding for, and grant requirements and contractual obligations to be performed by the Office of Community Wealth Building.

(3) Review and evaluate proposals for poverty reduction and community wealth building initiatives submitted to the City.

(4) Inform the citizens of the City of Richmond on issues of poverty and the City's policies and actions to

address poverty-related issues.

(5) Engage the citizens of the City of Richmond in public forums concerning the progress of the City's poverty reduction and community wealth building initiatives and concerning issues affecting low-income communities in the City of Richmond.

(b) *Reporting.* The Board shall provide the Mayor and a Human Services Manager with quarterly reports concerning its performance and the completion of the duties and functions set forth in subsection (a) of this section.

(Code 2004, § 2-922; Code 2015, § 2-895; Ord. No. 2014-234-215, § 1, 12-8-2014; Ord. No. 2019-196, § 1, 9-9-2019)

Sec. 2-896. Administration.

The Office of Community Wealth Building shall provide the necessary support for the Board. The Board shall meet at least once each quarter and as often as the Board may deem necessary. The Board shall keep minutes of its meetings in accordance with the requirements of the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.). Nine members of the Board shall constitute a quorum. The Board shall select from among its membership a member who is a resident of the City of Richmond to serve as co-Chair of the Board with the member of the Council pursuant to Section 2-894. The Board may adopt rules of procedure or bylaws, approved as to form and legality by the City Attorney and not inconsistent with this division or other applicable law, to govern the conduct of its meetings and affairs.

(Code 2004, § 2-923; Code 2015, § 2-896; Ord. No. 2014-234-215, § 1, 12-8-2014; Ord. No. 2019-196, § 1, 9-9-2019)

Secs. 2-897—2-925. Reserved.

DIVISION 7. PERSONNEL BOARD*

***Cross reference**—Officers and employees, § 2-57 et seq.; personnel system, § 2-1203 et seq.

Sec. 2-926. Created; composition; appointment and terms of members; officers; organization.

(a) Pursuant to Code of Virginia, § 15.2-1131, there shall be a Personnel Board consisting of ten persons appointed by the Council who reside within the City, except that the two Board members who are members of the classified system of the City shall not be subject to this subsection's residency requirement. The term of office shall be for three years, excepting members of classified service, who shall serve for five years. No person shall serve more than two consecutive terms, except that a person appointed to fill a vacancy shall be eligible for appointment to two complete terms. Vacancies shall be filled by the Council by appointment for the unexpired portion of the term. Two members of the Board shall be members of the classified service nominated by the members thereof in a manner prescribed by the Council.

(b) The Board shall choose one of its members to be Chairperson for a term of two years and one of its members to Vice-Chairperson for a like period, beginning with the first Tuesday in September of each even-numbered year.

(c) Six members of the Board shall constitute a quorum for general meetings, and five members shall constitute a quorum for grievance hearings.

(d) The Director of Human Resources shall designate an employee of the Department of Human Resources to act as Secretary of the Board who shall keep a full and accurate record of all proceedings of the Board.

(e) Members of the Board, other than the two persons who are members of the classified system of the City, shall be entitled to receive $125.00 per meeting attended as compensation for attendance at such meetings.

(Code 1993, § 2-241; Code 2015, § 2-926; Code 2004, § 2-936; Ord. No. 2006-132-103, § 1, 5-8-2006; Ord. No. 2014-69-48, § 1, 4-14-2014)

Sec. 2-927. General powers and duties.

The Personnel Board shall have the power and shall be required to:

(1) Serve as a hearing panel and hear appeals of grievances filed by any employee in the classified service pursuant to procedures established by the City in compliance with Code of Virginia, § 15.2-1507. The hearing decisions of the personnel board shall be in writing and shall contain findings of fact as to the

material issues in each case and the basis for the Board's findings.

(2) Review and hold public hearings on any proposed personnel rules and forward to the City Council and the Mayor its comments and recommendations relating to any such proposed personnel rule.

(3) Investigate any or all matters relating to conditions of employment in the service of the City.

(4) Receive and investigate complaints regarding alleged discrimination based on race, color, religion, national origin, sex, age, political affiliation, marital status, and disability from individual employees relating to such individual's employment with the City. While all employees, regardless of classification or status, may file a complaint with the Personnel Board concerning alleged discrimination, this section is not intended to and does not create any additional rights, including grievance rights or property rights in employment, for unclassified or nontenured classified employees. The means and method of filing complaints shall be prescribed by the personnel rules, provided that, in addition to the complaint procedure established, tenured classified employees may also raise discrimination complaints using the grievance process established in the personnel rules. The Personnel Board, however, shall have final decision-making authority about how to review and investigate all complaints. The Board may utilize methods of persuasion, conciliation and mediation designed to promote adequate resolution of the dispute.

(Code 1993, § 2-242; Code 2004, § 2-937; Code 2015, § 2-927; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-90-93, § 4, 4-24-2006)

Secs. 2-928—2-957. Reserved.

DIVISION 8. COMMUNITY CRIMINAL JUSTICE BOARD

Sec. 2-958. Created; composition; terms; removal; bylaws.

(a) *Created.* There is hereby established a Community Criminal Justice Board pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders, Code of Virginia, § 9.1-173 et seq.

(b) *Composition.* The Board shall consist of 15 members appointed by the City Council. The Board membership shall include the following members:

(1) A judge of the Circuit Court;

(2) A judge of the General District Court;

(3) A judge of the Juvenile and Domestic Relations Court;

(4) The Chief Magistrate;

(5) The Chief of Police;

(6) An attorney for the Commonwealth;

(7) The Public Defender or an attorney who is experienced in the defense of criminal matters;

(8) The Sheriff;

(9) A local educator;

(10) The administrator of the Community Services Board; and

(11) A City Council member.

The remaining members shall be at-large members and may be selected from nominees presented to the City Council by the Board. Any officer of the court appointed to the Board may designate a member of his staff approved by resolution of the City Council to represent him at meetings of the Board.

(c) *Terms.* The Chief Magistrate, the Chief of Police and the Sheriff shall serve as ex officio members of the Board. All other members shall serve for a term of two years from the date of appointment, except that the City Council member shall serve for a term concurrent with that member's term on the Council.

(d) *Removal.* Any member of the Board may be removed in accordance with Section 4.15(A) of the Charter.

(e) *Bylaws.* The Board may adopt such bylaws or rules of procedure not in conflict with the provisions of this section or other applicable law as the Board may deem appropriate for the election of its officers and the conduct of its affairs.

(Code 1993, § 2-251; Code 2004, § 2-966; Code 2015, § 2-958; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2007-12-34, § 1, 2-26-2007)

Sec. 2-959. Purposes.

The Community Criminal Justice Board shall serve as a planning and advisory body to the City for developing, monitoring, and evaluating community corrections programs that will provide the judicial system with sentencing alternatives for certain individuals who meet the eligibility criteria established under Code of Virginia, § 19.2-303.3 or other applicable provision of State law, pursuant to standards promulgated in conformity with Code of Virginia, § 9.1-175. The program developed by the City will:

(1) Allow the City Council greater flexibility and involvement in responding to the problem of crime in the City;

(2) Provide more effective protection for the citizens of the City and promote efficiency and effectiveness in the delivery of community correctional services;

(3) Provide increased opportunities for adult offenders to make restitution through financial reimbursement or the performance of community services;

(4) Provide programs and services specifically designed to meet the rehabilitative needs of selected adult offenders; and

(5) Provide the judicial system with services which allow for sentencing alternatives, in addition to probation supervision, and provide appropriate pretrial services and postsentencing alternatives in the City for certain adult offenders with the goal of reducing the incidence of repeat offenders.

(Code 1993, § 2-253; Code 2004, § 2-967; Code 2015, § 2-959)

Sec. 2-960. Duties.

The Community Criminal Justice Board, through its Chairperson, shall:

(1) Monitor and evaluate community corrections resources and facilities, both public and private, available for use by the courts in diverting adult offenders from correctional institution placements.

(2) Within amounts approved therefor, advise the City on the funding of a system of mandated community corrections for local responsible adult offenders.

(Code 1993, § 2-254; Code 2004, § 2-968; Code 2015, § 2-960)

Secs. 2-961—2-978. Reserved.

DIVISION 9. SERIOUS OR HABITUAL OFFENDER COMPREHENSIVE ACTION PROGRAM COMMITTEE

Sec. 2-979. Establishment; membership; governing documents.

(a) *Establishment.* There is hereby established a Serious or Habitual Offender Comprehensive Action Program Committee pursuant to and in accordance with Code of Virginia, § 16.1-330.1(C).

(b) *Membership.* The membership of the Committee shall consist of at least one representative of each agency specified in Code of Virginia, § 16.1-330.1(C).

(c) *Governing documents.* The Committee shall develop and adopt bylaws or rules not inconsistent with State law or this section to govern its membership and the conduct of its business and such other programmatic documents as it may deem necessary or appropriate.

(Code 2004, § 2-986; Code 2015, § 2-979; Ord. No. 2008-209-230, § 1, 10-27-2008)

Secs. 2-980—2-1001. Reserved.

DIVISION 10. ETHICS REFORM COMMISSION

Sec. 2-1002. Created.

There is hereby created a commission of the City of Richmond with indefinite duration to be known as the Ethics Reform Commission for the purpose of providing to the Council and the Mayor information and advice concerning the implementation of the recommendations of the Ethics Reform Task Force established pursuant to Ordinance No. 2017-147, adopted September 11, 2017, as amended by Ordinance No. 2018-038, adopted February 26, 2018.

(Code 2015, § 2-1002; Ord. No. 2019-264, § 1(2-1002), 11-12-2019)

Sec. 2-1003. Composition.

The Commission shall be composed of 11 members, subject to the conditions set forth in this section, as follows:

(1) The Council shall appoint nine members and the Mayor shall appoint two members.

(2) All appointments shall be otherwise governed by Sections 2-767 and 2-768.

(3) All other aspects of the Commission and its membership not addressed in this division shall be governed by Chapter 2, Article V, Division 1.

(Code 2015, § 2-1003; Ord. No. 2019-264, § 1(2-1003), 11-12-2019)

Sec. 2-1004. Qualifications.

The membership of the Commission should (i) be broadly representative of each of the City's nine Council districts and (ii) possess experience and expertise concerning ethical standards in both the public sector and the private sector and concerning areas, including, but not limited to, procurement, human resources, the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.), and related issues.

(Code 2015, § 2-1004; Ord. No. 2019-264, § 1(2-1004), 11-12-2019)

Sec. 2-1005. Duties.

The Commission shall serve as an advisory body to the Council and the Mayor. The Commission shall provide to the Council and the Mayor information and advice concerning the implementation of the recommendations of the Ethics Reform Task Force established pursuant to Ordinance No. 2017-147, adopted September 11, 2017, as amended by Ordinance No. 2018-038, adopted February 26, 2018. In addition, the Commission shall provide to the Council and the Mayor information and advice concerning the City's implementation of the following recommendations of the Ethics Reform Task Force:

(a) Implementation of a requirement that City employees must sign conflict of interest disclosure forms.

(b) Development of stronger policies for strict enforcement of disclosure of conflicts of interest between City contractors and City employees.

(c) Update ordinances, administrative regulations, and any related City departmental policies to require the disclosure of conflicts of interest.

(d) Update ordinances, administrative regulations, and any related City departmental policies to reflect current State law related to lobbying and monitor compliance by City employees.

(e) Establish a uniform code of ethics for all City employees to be published in a handbook and on the City's website.

(f) Implementation of a requirement that the Department of Human Resources develop and implement an ethics training module by July 1, 2020, and monitor compliance with mandatory completion of ethics training.

The Commission shall submit a report to the Council's Organizational Development Standing Committee by December 31 of each year outlining the City's progress towards the implementation of the Ethics Reform Task Force's recommendations.

(Code 2015, § 2-1005; Ord. No. 2019-264, § 1(2-1005), 11-12-2019)

Sec. 2-1006. Administration.

(a) *Quorum.* Six voting members of the Commission shall constitute a quorum.

(b) *Officers.* The Commission shall select from among its membership a Chair, a Vice-Chair, a Secretary, and such other officers as it may deem necessary to discharge its functions.

(c) *Meetings.* The Commission shall meet at least once every four months and as often as the Commission may deem necessary.

(d) *Reporting.* Within 15 days after the end of each quarter, the Commission shall provide the Council and the Mayor with a report on the Commission's activities and accomplishments for the preceding quarter.

(e) *Freedom of Information.* The Commission shall keep minutes of its meetings in accordance with the requirements of the Virginia Freedom of Information Act.

(f) *Procedures.* The Commission may adopt rules of procedure or bylaws, approved as to form and legality by the City Attorney and not inconsistent with this division or other applicable law, to govern the conduct of its meetings and affairs. For purposes of Section 2-773, the Commission is classified as "advisory."

(g) *Staff and Resources.* The Office of the Council Chief of Staff, with the assistance of other departments and agencies of the City, as needed, shall provide the necessary support for the Commission subject to the appropriation of sufficient funds therefor, provided that City employees shall not be responsible for coordinating the logistics of meetings, coordinating meeting space, creating agendas, completing minutes, and preparing reports.

(Code 2015, § 2-1006; Ord. No. 2019-264, § 1(2-1006), 11-12-2019)

Secs. 2-1007—2-1055. Reserved.

DIVISION 11. ADVISORY BOARD OF RECREATION AND PARKS*

***Cross reference—**Use of public grounds, parks, playfields and playgrounds, § 8-264 et seq.

Sec. 2-1056. Created; composition.

There shall be an Advisory Board of Recreation and Parks consisting of 13 members. All members of the Advisory Board of Recreation and Parks shall be appointed by the Council. One member shall be nominated by the Board of Directors of the Monroe Park Conservancy to represent the Conservancy, one member shall be nominated by the Board of Directors of the Maymont Foundation to represent the Foundation, and one member shall be nominated by the Board of Directors of the EnRichmond Foundation to represent the Foundation. One member shall be selected from the staff of the City's Department of Parks, Recreation and Community Facilities. One member shall be selected from each of the nine Councilmanic Districts of the City, with each such member to be a resident of the Councilmanic District nominated by the Council member representing such Councilmanic District; provided, however, that should the Council member representing such Councilmanic District fail to nominate a resident of the Councilmanic District within 90 days of a vacancy, whether created by the expiration of a term or otherwise, in the seat assigned to that Councilmanic District, any Council member may nominate a resident of any Councilmanic District to fill such vacancy.

(Code 2004, § 2-1028; Code 2015, § 2-1056; Ord. No. 2007-259-277, § 2, 12-10-2007; Ord. No. 2014-111-84, § 2, 5-27-2014; Ord. No. 2014-219-198, § 1(2-1028), 10-27-2014)

Secs. 2-1057—2-1080. Reserved.

DIVISION 12. AUDIT COMMITTEE*

***Cross reference—**City Auditor, § 2-184 et seq.

Sec. 2-1081. Established; duties; powers.

(a) *Established.* An Audit Committee is hereby established to assist the City Council in the Council's discharge of its responsibilities for the financial management of the City, specifically in the areas under the charge of the Director of Finance which are subject to audit by the City Auditor pursuant to the provisions of Chapter 8 of

the City Charter.

(b) *Duties.* The duties of the Audit Committee shall be the following:

(1) Reviewing significant financial information for appropriateness, reliability and timeliness;

(2) Ascertaining the existence and adequacy of accounting and internal control systems and the adequacy of safeguards for the assets of the City;

(3) Overseeing audit functions;

(4) Making recommendations to the Council concerning selection and termination of external auditors;

(5) Reviewing annual financial reports of the City and results of audit examinations;

(6) Evaluate internal control functions;

(7) Reviewing interim financial information;

(8) Evaluating financial management systems and results of operations of the City;

(9) Monitoring and overseeing the activities undertaken by the Inspector General pursuant to Section 2-214;

(10) Making periodic reports, no less frequently than once every six months, to the Mayor and the Council concerning the activities undertaken by the Inspector General pursuant to Section 2-214 during the time since the last such report;

(11) Reviewing and approving the annual work plan of the Office of the City Auditor.

(Code 1993, § 2-297; Code 2004, § 2-1056; Code 2015, § 2-1081; Ord. No. 2010-32-50, § 1, 3-8-2010; Ord. No. 2018-139, § 2, 5-14-2018)

Sec. 2-1082. Members; terms of office.

(a) The Audit Committee shall consist of seven members to be appointed by the City Council. Two of these seven members shall be members of the Council appointed to serve terms coincident with their terms as members of the City Council. The remaining five members shall be appointed from the business community of the City. Of these five members appointed from the business community of the City, at least one shall be licensed by the State Board of Accountancy as a Certified Public Accountant, at least one shall be a lawyer admitted to the Virginia State Bar, and at least one shall have experience in the financial services industry.

(b) Council members appointed to the Audit Committee shall succeed themselves no more than two times, and citizen members shall not be allowed to succeed themselves more than two times. All appointments of citizen members shall be for terms of three years.

(Code 1993, § 2-298; Code 2004, § 2-1057; Code 2015, § 2-1082; Ord. No. 2009-90-100, § 1, 6-8-2009; Ord. No. 2011-144-154, § 1, 9-12-2011; Ord. No. 2016-094, § 1, 4-11-2016)

Secs. 2-1083—2-1102. Reserved.

DIVISION 13. AGING AND DISABILITIES ADVISORY BOARD

Sec. 2-1103. Created.

There is hereby created an advisory board of the City of Richmond with indefinite duration to be known as the Aging and Disabilities Advisory Board.

(Code 2004, § 2-1065; Code 2015, § 2-1103; Ord. No. 2011-150-158, § 1, 9-26-2011)

Sec. 2-1104. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Caregiver means a person who:

(1) Cares for;

(2) Manages the medications of or addresses medical issues with healthcare professionals for;

(3) Attends to the daily hygiene and personal needs of;

(4) Carries out household chores and meal preparation for; or

(5) Manages the financial obligations of;

a senior citizen or person with a disability.

Person with a disability means a resident of the City who is "permanently and totally disabled," as that term is defined by Code of Virginia, § 58.1-3217.

Senior citizen means a resident of the City who is at least 55 years of age.

(Code 2004, § 2-1066; Code 2015, § 2-1104; Ord. No. 2011-150-158, § 1, 9-26-2011; Ord. No. 2017-176, § 1, 10-9-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 2-1105. Composition; terms of office.

(a) The Board shall be composed of nine members whom the Council shall nominate and appoint. Of the nine members, one member shall be a representative of the business community whose primary residence or principal place of business is located within the City of Richmond, two members shall be residents of the City who are persons with disabilities, two members shall be residents of the City who are senior citizens, one member shall be either a member of the Council or a City employee, one member shall be a resident of the City who is a caregiver of at least one person with a disability, one member shall be a resident of the City who is a caregiver of at least one senior citizen and one member shall be either an attorney or paralegal:

(1) Whose firm or office routinely represents or handles cases for senior citizens or persons with disabilities;

(2) Who has experience addressing issues related to the Americans with Disabilities Act; and

(3) Who shall not be required to be a resident of or have a principal place of business in the City.

(b) In order to facilitate the staggering of terms of the members of the Board, of the members initially appointed, three members of the Board shall serve for terms of three years, three members of the Board shall serve for terms of two years and three members of the Board shall serve for terms of one year. Thereafter, all members shall be appointed for terms of three years from the date of appointment. Upon the expiration of a member's term of office, that member shall continue to hold office until the successor thereof is appointed and qualified. Any vacancy shall be filled for the remainder of the unexpired term in the same manner as provided in this section. All other aspects of the Board and its membership not addressed in this division shall be governed by Article V, Division 1 of this chapter.

(Code 2004, § 2-1067; Code 2015, § 2-1105; Ord. No. 2011-150-158, § 1, 9-26-2011; Ord. No. 2017-176, § 1, 10-9-2017)

Sec. 2-1106. Duties and functions.

(a) The Board shall provide advice and recommendations to the Council concerning senior citizens and persons with disabilities and provide a report of the Board's advice and recommendations as required by this subsection and upon the request of the Council. The Board shall also work with residents of the City, the City administration, the Council and businesses to develop and increase access to consumer-oriented and community-based services for senior citizens and persons with disabilities. In addition, the Board shall develop and make available for public comment an assessment of local needs and priorities for senior citizens and persons with disabilities and shall provide the assessment to the Council in the form of a report. The Board shall update such assessment in 2012 and every four years thereafter. For purposes of Section 2-773, the Board is classified as "advisory." The Office of the Deputy Chief Administrative Officer for Human Services shall provide the necessary support for the Board. The Board shall meet no fewer than six times annually and shall keep minutes in accordance with the requirements of the Virginia Freedom of Information Act. The Board may adopt rules of procedure or bylaws not inconsistent with this division or other applicable law to govern the conduct of its meetings and affairs. The Board may elect from its membership a Chairman and other officers it deems necessary in accordance with its rules of procedure or bylaws.

(b) The Board shall make recommendations to the Council concerning the following:

(1) Resource referrals to the City regarding the Americans with Disabilities Act, the Older Americans Act

and other community-based resources for senior citizens or persons with disabilities.

(2) Based upon information gathered from other public bodies and organizations, effective strategies and best practices for providing government services designed to assist senior citizens and persons with disabilities.

(3) Any other matters as the Council may require from time to time.

(Code 2004, § 2-1068; Code 2015, § 2-1106; Ord. No. 2011-150-158, § 1, 9-26-2011; Ord. No. 2017-176, § 1, 10-9-2017)

Secs. 2-1107—2-1125. Reserved.

DIVISION 14. BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS*

***Cross reference—**Equalization of assessments, § 26-230 et seq.

State law reference—Boards of equalization, Code of Virginia, § 58.1-3370 et seq.

Sec. 2-1126. Created.

In accordance with Code of Virginia, § 58.1-3373.1, there is hereby established a board of the City of Richmond to be known as the Board of Equalization of Real Estate Assessments. The Board of Equalization established by this section shall be a permanent board of equalization in accordance with Code of Virginia, § 58.1-3373.

(Code 2004, § 2-1071; Code 2015, § 2-1126; Ord. No. 2014-107-81, § 1, 5-27-2014)

Sec. 2-1127. Composition; alternate member; election of officers; terms of office; duties; minutes.

(a) *Composition.* The Board shall be composed of three members appointed by the Circuit Court of the City of Richmond in accordance with Code of Virginia, § 58.1-3373. All members of the Board shall be residents, a majority of whom shall be freeholders, in the City of Richmond and shall be selected from the citizens of the City of Richmond. Appointments to the Board shall be broadly representative of the community. Thirty percent of the members of the Board shall be commercial or multifamily residential real estate appraisers who are licensed and certified by the Virginia Real Estate Appraiser Board to serve as general real estate appraisers, other commercial or multifamily real estate professionals or licensed commercial or multifamily real estate brokers, builders, developers, active or retired members of the Virginia State Bar, or other legal or financial professionals whose area of practice requires or required knowledge of the valuation of property, real estate transactions, building costs, accounting, finance or statistics. In accordance with Code of Virginia, § 58.1-3374, for purposes of this section, commercial or multifamily residential property shall be defined as any property that is either operated as or zoned for use as commercial, industrial or multifamily residential rental property.

(b) *Alternate member.* In addition to regular members, the Circuit Court of the City of Richmond shall appoint one alternate member. The qualifications and compensation of the alternate member shall be the same as those of regular members. A regular member, when such member knows that such member will be absent or will have to abstain from any proceeding at a meeting, shall notify the Chairperson of the Board elected in accordance with subsection (c) of this section at least 24 hours prior to the meeting of such fact. The Chairperson may select the alternate to serve in the absent or abstaining member's place and the records of the Board shall so note. The alternate member may vote on any proceeding in which a regular member is absent or abstains.

(c) *Election of officers.* The Board shall elect one of its members as Chairperson and another as Secretary.

(d) *Terms of office.* Of the members initially appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and one member shall be appointed for a term of three years. As the terms of the initial members expire, their successors shall be appointed for terms of three years. The alternate member shall be appointed for a two-year term. Any vacancy shall be filled for the remainder of an unexpired term by appointment of the Circuit Court of the City of Richmond.

(e) *Duties.* The Board shall hear complaints that real property is assessed at more than fair market value. Except as otherwise provided by the Code of Virginia, the Board shall establish the fair market value of real property as of January 1 of the applicable year. The Board shall hear and give consideration to such complaints, shall adjust and equalize such assessments and shall increase and decrease assessments, whether specific complaint be laid or

not, if, in its judgment, the same be necessary to equalize and accomplish the end that the burden of taxation shall rest equally upon all citizens of the City of Richmond. The Board shall hear and determine any and all such petitions and, by order on a form prepared by the Tax Commissioner of the Virginia Department of Taxation or on a form developed by the Board containing all the information required on the forms prepared by the Tax Commissioner of the Virginia Department of Taxation, may increase, decrease or affirm the assessment of which complaint is made; and, by order, it may increase or decrease any assessment, upon its own motion. No assessment shall be increased until after the owner of the property has been notified and given an opportunity to show cause against such increase. In addition, no assessment shall be increased on commercial, multifamily residential, or industrial property unless such increase is recommended by the City Assessor in compliance with the provisions of Code of Virginia, § 58.1-3379.

(f) *Minutes.* The Board shall keep minutes of its meetings and enter therein all orders made and transmit promptly copies of such orders as relate to the increase or decrease of assessments to the property owner, the City Assessor and the Director of Finance.

(Code 2004, § 2-1072; Code 2015, § 2-1127; Ord. No. 2014-107-81, § 1, 5-27-2014)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3373, 58.1-3374, 58.1-3376, 58.1-3379, 58.1-3383, 58.1-3384.

Sec. 2-1128. Applications for equalization of real estate assessments.

(a) Any property owner or such property owner's duly appointed representative may apply to the Board for the adjustment to fair market value and equalization of such property owner's assessment, including errors in acreage. An executed and properly notarized letter from the property owner designating an appointed representative for the property owner shall be presumed to be a valid designation from the property owner, and the person whose signature is notarized shall be presumed to have the authority to designate such representative on behalf of the property owner.

(b) Any application for equalization of real estate assessments shall be filed in the Office of the City Assessor by November 30 of each year. If no applications for relief are received by such date, the Board of Equalization shall be deemed to have discharged its duties. If any such application is mailed by the applicant, the postmark date shall be considered the date of receipt by the City Assessor. A hearing for relief before the Board regarding an assessment on residential property shall not be denied on the basis of a lack of information on the application for relief, as long as the application includes the address, the parcel number, and the property owner's proposed assessed value for the property. If the application for relief is sent electronically, the date the applicant sends the application shall be considered the date of receipt by the City Assessor. The application is considered sent when it meets the requirements of Code of Virginia, § 59.1-493(a). A hearing for relief before the Board regarding an assessment on commercial, multifamily residential, or industrial property on the basis of fair market value shall not be denied on the basis of a lack of information on the application, as long as documentation of any applicable assessment methodologies is submitted with the application, and the application includes the address, the parcel number, and the property owner's proposed assessed value for the property.

(Code 2004, § 2-1073; Code 2015, § 2-1128; Ord. No. 2014-107-81, § 1, 5-27-2014; Ord. No. 2018-133, § 1, 5-29-2018)

State law reference—Similar provisions, Code of Virginia, § 58.1-3380.

Sec. 2-1129. Conduct of proceedings before the Board.

(a) In all cases brought before the Board, there shall be a presumption that the valuation determined by the City Assessor is correct. The burden of proof on appeal to the Board shall be on the property owner to rebut the presumption and show by a preponderance of the evidence that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application and that it was not arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers and applicable Virginia law relating to valuation of property. Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice. However, in any appeal of the assessment of residential property filed by a property owner as an owner of real property containing less than four residential units, the City Assessor shall give the required written notice to the property owner, or the duly

authorized representative thereof, under Code of Virginia, § 58.1-3331(E), and, upon written request, shall provide the property owner or the duly authorized representative thereof copies of the assessment records set out in Code of Virginia, § 58.1-3331(A), (B) and (C) pertaining to the City Assessor's determination of fair market value of the property under appeal. The City Assessor shall provide such records within 15 days of a written request by the taxpayer or the duly authorized representative thereof. If the City Assessor fails to do so, the City Assessor shall present the following into evidence prior to the presentation of evidence by the taxpayer at the hearing:

(1) Copies of the assessment records maintained by the assessing officer under Code of Virginia, § 58.1-3331;

(2) Testimony that explains the methodologies employed by the assessing officer to determine the assessed value of the property; and

(3) Testimony that states that the assessed value was arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers and applicable Virginia law regarding the valuation of property.

Upon the conclusion of the presentation of the evidence of the City Assessor, the property owner shall have the burden of proof by a preponderance of the evidence to rebut such evidence presented by the assessing officer as otherwise provided in this section.

(b) In considering complaints, nothing shall be construed to prohibit consideration of any statement of income and expense or market sales that occurred through December 31, prior to the effective date of the assessment, so long as such information is submitted to the Board no later than the deadline prescribed in Section 2-1128 for the submission of an application for relief. No studies or analyses published after December 31 immediately preceding the effective date of the assessment shall be considered in an appeal filed relating to that assessment.

(c) In any case before the Board concerning a property owner's complaint in which the City Assessor requests the Board to increase the assessment after the property owner files an appeal to the Board on a commercial, multifamily residential, or industrial property, the City Assessor shall provide the property owner notice of the request not less than 14 days prior to the hearing of the Board. Except as provided herein, if the property owner contests the requested increase, the City Assessor shall either withdraw the request or shall provide the Board an appraisal performed by an independent contractor who is licensed and certified by the Virginia Real Estate Appraiser Board to serve as a general real estate appraiser, which appraisal affirms that such increase in value represents the property's fair market value as of the date of the assessment in dispute. The provisions of this subsection that require that the City Assessor provide the Board with an appraisal shall not apply if:

(1) The requested increase is based on mistakes of fact, including computation errors; or

(2) The information on which the City Assessor bases the requested increase was available to, but not provided by, the property owner in response to a request for information made by the City Assessor at the time the challenged assessment was made.

(d) The City Assessor shall, when requested, attend the meetings of the Board, without additional compensation, and shall call the attention of the Board to such inequalities in real estate assessments in the City of Richmond as may be known to the City Assessor.

(e) The Board may go upon and inspect any real estate subject to adjustment or equalization by it.

(Code 2004, § 2-1074; Code 2015, § 2-1129; Ord. No. 2014-107-81, § 1, 5-27-2014)

State law reference—Similar provisions, Code of Virginia, § 58.1-3379.

Sec. 2-1130. Sittings of the Board; compensation.

(a) *Sittings of the Board.* The Board shall sit at and for such time or times as may be necessary to discharge the duties imposed and to exercise the powers conferred by this division, but in no case shall the Board sit for a number of days exceeding 50 days. Of each sitting, public notice shall be given at least ten days beforehand by publication in a newspaper having general circulation in the City of Richmond. Such notice shall inform the public that the Board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate

assessments in the City of Richmond and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage in such real estate assessments.

(b) *Compensation.* The members of the Board shall receive a per diem compensation of $250.00 for each hearing or meeting of the Board for which such members are actually engaged in the duties of the Board; provided, however, that no member shall receive compensation for duties carried out on any day exceeding 50 days.

(Code 2004, § 2-1075; Code 2015, § 2-1130; Ord. No. 2014-107-81, § 1, 5-27-2014)

State law reference—Similar provisions, Code of Virginia, § 58.1-3378; authority to limit compensation to a specific number of days, Code of Virginia, § 58.1-3375.

Secs. 2-1131—2-1145. Reserved.

DIVISION 15. GREEN CITY COMMISSION

Sec. 2-1146. Established; composition; responsibilities and duties; rules of procedure; meetings; administrative support.

(a) *Established*. There is hereby created and established a Green City Commission for the purpose of providing expertise and information to support the sustainability efforts of the City of Richmond.

(b) *Composition; terms of office*. The Commission shall consist of nine members. The Council shall appoint seven members, one of whom must have expertise in urban forestry. The Mayor shall appoint two members, one of whom shall be a City employee in the Department of Public Works or the designee thereof. Of the remaining members, one member shall be selected from each of the following fields:

(1) Sustainability.

(2) Green building practices.

(3) Energy efficiency.

(4) Environmental protection.

The members of the Commission shall serve for terms of three years and shall be limited to two consecutive terms. At least four of the Council appointees shall reside in the City or have such appointee's principal place of employment in the City in accordance with Section 2-768. Notwithstanding the provisions of Section 2-768 to the contrary, the remaining Council appointees and the Mayor's appointee other than the Director of Public Works or the designee thereof shall not be subject to any requirement that they maintain a residence or a principal place of employment in the City. Upon the expiration of a term of office, the member holding that office may continue to serve until a successor is appointed and qualified. Any vacancy shall be filled for the unexpired term in the same manner as provided in this subsection. All other aspects of the Commission and its membership not addressed in this division shall be governed by Article V, Division 1 of this chapter.

(c) *Responsibilities and duties.* The Commission shall fulfill the following responsibilities and duties:

(1) Provide expertise and information to the City to support the sustainability efforts of the City.

(2) Consult with the State government and other local governments with regard to such governments' sustainability efforts and methods.

(3) Recommend changes to the Code of the City of Richmond (including the City's zoning regulations and building codes), the Code of Virginia and other laws as necessary to implement sustainable methods in the City of Richmond.

(4) Encourage the adoption of sustainable business and building approaches by the private sector.

(5) Work with the Department of Public Works to preserve trees and plant life in the City.

(6) Prepare and submit an annual report to the Council by December 31 of each year.

(d) *Rules of procedure.* The Commission may adopt rules of procedure or bylaws not inconsistent with this division to govern the conduct of its meetings and operations. The Commission may elect a Chairperson and such other officers in accordance with the Commission's rules of procedure or by-laws.

(e) *Meetings.* The Commission shall hold regular meetings at least quarterly and other meetings as needed.

(f) *Administrative support.* The Commission shall have as its staff the Council Chief of Staff and such other staff as the Chief of Staff may identify. The Council Chief of Staff shall coordinate with the Chief Administrative Officer and the City Clerk as needed to furnish the Commission with such other staff and resources as may be necessary to assist the Commission in discharging the duties imposed on the Commission by this division.

(Code 2004, § 2-1077; Code 2015, § 2-1146; Ord. No. 2009-175-185, § 1, 10-26-2009; Ord. No. 2016-114, § 1, 5-9-2016)

Secs. 2-1147—2-1156. Reserved.

DIVISION 16. CLEAN CITY COMMISSION*

*Cross reference—Solid waste, Ch. 23.

Sec. 2-1157. Created.

There is hereby created an advisory commission of the City of Richmond with indefinite duration to be known as the Clean City Commission. It is intended that this advisory commission be a continuation of the Clean City Commission created by Resolution No. 92-R377-93-21, adopted January 11, 1993.

(Code 2015, § 2-1163; Ord. No. 2015-45-63, § 1, 4-27-2015)

Sec. 2-1158. Composition; terms of office.

The Commission shall be composed of 15 members appointed by the Council, of which nine members shall be from among the eligible voters within each Council district, five members shall be corporate or citizen volunteers, either or both, and one member shall be the Director of Public Works, or the designee thereof. However, if a member from among the eligible voters within a Council district has not been identified and appointed within 180 days from the date of a vacancy, the Council, with the approval of the member of the Council representing the Council district for which a vacancy has occurred, may appoint any person who resides or works in the City of Richmond to fill such vacancy. The members shall serve for terms of two years and upon the expiration of a term of office, the member holding that office may continue to serve until a successor is appointed. Any vacancy shall be filled for the unexpired term in the manner in which members are regularly appointed. All other aspects of the Commission and its membership not addressed in this division shall be governed by Article V, Division 1 of this chapter.

(Code 2015, § 2-1164; Ord. No. 2015-45-63, § 1, 4-27-2015)

Sec. 2-1159. Duties and functions.

The Clean City Commission shall provide advice and recommendations to the Council concerning programs to reduce litter and improve the local environment in the City of Richmond. For purposes of Section 2-773, the Commission is classified as "advisory." The Clean City Commission shall perform the following duties:

(1) Achieve visible improvements in the manner in which the local environment is maintained with noticeable reductions in the amount of litter and illegal dumping.

(2) Improve the level of public awareness regarding litter and recycling problems as well as improving the level of responsibility by all parties who generate or handle solid waste.

(3) Review existing litter control and dumping ordinances and suggest ways to improve enforcement.

(4) Work with all City and State agencies to reduce the amount of illegal dumping by contractors, citizens and all others who in the course of their day-to-day operations create large amounts of hard to dispose solid waste.

(Code 2015, § 2-1165; Ord. No. 2015-45-63, § 1, 4-27-2015)

Sec. 2-1160. Organization; reporting.

(a) *Organization.* There shall be a Chairperson and Vice-Chairperson of the Commission, who shall be elected by the members from among themselves within two months following the annual installation of new full-term members. Eight members of the Commission shall constitute a quorum. The Department of Public Works shall provide an executive coordinator to act as Secretary for the meetings and run the day-to-day operations and programs as set forth by the Commission. In addition, the Clean City Commission shall:

(1) Establish its own bylaws and rules of procedure consistent with applicable provisions of the Code of Virginia, the Charter and this Code and file a copy of the bylaws with the City Clerk.

(2) The Commission shall hold regular meetings at least quarterly and other meetings as needed.

(3) File with the City Clerk notices of all meetings in accordance with the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

(4) Follow, unless otherwise provided, the general laws and requirements for citizen boards, commissions and committees of the City.

(5) Establish five standing committees as follows: Communications, Schools, Business and Industry, Community Organizations, and Municipal Operations.

(b) *Reporting*. On an annual basis, the Commission shall provide the Council with recommendations concerning programs to reduce litter and improve the local environment in the City of Richmond.

(Code 2015, § 2-1166; Ord. No. 2015-45-63, § 1, 4-27-2015)

Secs. 2-1161—2-1170. Reserved.

DIVISION 17. HUMAN RIGHTS COMMISSION*

***Cross reference**—Human rights, Ch. 17.

Sec. 2-1171. Created.

Pursuant to Section 2.04.1 of the Charter of the City of Richmond (2010), as amended, and Code of Virginia, § 15.2-965, there is hereby created a commission of the City of Richmond with indefinite duration to be known as the Human Rights Commission.

(Code 2015, § 2-1167; Ord. No. 2018-044, § 1, 6-11-2018)

Sec. 2-1172. Composition.

The Commission shall be composed of 13 members appointed by the Council and the Mayor as follows:

(1) Eleven adult members of whom the Council shall appoint six and the Mayor five.

(2) Two non-voting youth members who shall be students of public schools administered by the School Board of the City of Richmond, Virginia, enrolled in the tenth, 11th, or 12th grades. Of these two youth members, the Council shall appoint one and the Mayor shall appoint one.

(Code 2015, § 2-1168; Ord. No. 2018-044, § 1, 6-11-2018)

Sec. 2-1173. Qualifications.

All members of the Commission shall be residents of the City of Richmond and shall be broadly representative of the community with respect to race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age, marital status, disability, sexual orientation, transgender status, or gender identity.

(Code 2015, § 2-1169; Ord. No. 2018-044, § 1, 6-11-2018)

Sec. 2-1174. Terms of office.

(a) The 11 adult members shall be appointed for terms of three years. No adult member shall be appointed to more than two successive full terms; provided, however, that a person appointed to fill an unexpired term may be reappointed to two successive full terms upon completion of the unexpired term for which the person has been appointed.

(b) Each of the two youth members shall be appointed to one term commencing September 1 and ending August 31 of the immediately succeeding calendar year. No youth member shall serve more than one term; provided, however, that a person appointed as a youth member to fill an unexpired term may be reappointed to one successive full term upon completion of the unexpired term for which the person has been appointed, as long as such person meets the applicable requirements set forth in Sections 2-1172 and 2-1173.

(c) All other aspects of the Commission and its membership not addressed in this division shall be governed

by Chapter 2, Article V, Division 1.

(Code 2015, § 2-1170; Ord. No. 2018-044, § 1, 6-11-2018)

Sec. 2-1175. Duties.

The Commission shall perform the following duties:

(1) Investigate, to the extent permitted by law, and advise the Council and the Mayor on acts or practices prohibited under applicable local, State, and Federal law.

(2) Provide assistance to persons who believe their human rights under City, State, or Federal law have been violated by identifying the appropriate Federal, State, local agency to address the complaint and referring such persons to such agency.

(3) Provide public forums for the discussion of human rights issues, including educational awareness forums concerning policies or practices that cause or may be caused by discriminatory practices or patterns.

(4) Conduct studies concerning ways to improve human relations in the City and propose solutions for any issues identified through such studies.

(5) Acquire data, to the extent permitted by law, by monitoring requests for information and patterns of complaints.

(6) Request, to the extent permitted by law, information concerning incidents that may constitute unlawful acts of discrimination or unfounded charges of unlawful discrimination under City, State, or Federal law.

(7) Create, maintain and, upon request, distribute a resource guide containing information about services, advocacy organizations, websites, and City resources dedicated to assisting individuals who believe their human rights under applicable local, State, or Federal law have been violated.

(Code 2015, § 2-1171; Ord. No. 2018-044, § 1, 6-11-2018)

Sec. 2-1176. Administration.

(a) *Quorum*. Six members of the Commission shall constitute a quorum.

(b) *Officers*. The Commission shall select from among its membership a chair and such other officers as it may deem necessary to discharge its functions.

(c) *Meetings*. The Commission shall meet at least once a month and as often as the Commission may deem necessary.

(d) *Reporting*. On the first day of each month, the Commission shall provide the Boards and Commissions Administrator with a summary of the Commission's activities for the preceding month. In addition, by no later than February 15 of each year, the Commission shall submit a comprehensive written report to the Council concerning its activities for the preceding year.

(e) *Freedom of Information*. The Commission shall keep minutes of its meetings in accordance with the requirements of the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

(f) *Procedures*. The Commission may adopt rules of procedure or bylaws, approved as to form and legality by the City Attorney and not inconsistent with this division or other applicable law, to govern the conduct of its meetings and affairs. For purposes of Section 2-773, the Commission is classified as "advisory."

(g) *Staff and resources*. The Office of the Mayor shall provide the necessary support for the Commission subject to the appropriation of sufficient funds therefor.

(Code 2015, § 2-1172; Ord. No. 2018-044, § 1, 6-11-2018)

Secs. 2-1177—2-1186. Reserved.

DIVISION 18. HISTORY AND CULTURE COMMISSION

Sec. 2-1187. Created.

There is hereby created a commission of the City of Richmond with indefinite duration to be known as the

History and Culture Commission for the purpose of providing to the Mayor and the Department of Planning and Development Review information and advice concerning matters of historical and cultural significance.

(Code 2015, § 2-1173; Ord. No. 2018-269, § 1, 11-13-2018)

Sec. 2-1188. Composition.

The Commission shall be composed of 13 members, subject to the conditions set forth in this section, as follows:

(1) Nine voting members appointed by the Mayor who shall be residents of the City and who are not officers or employees of the City.

(2) Four non-voting members as follows:

a. One employee of the Department of Planning and Development Review appointed by the Mayor.

b. One member of the City Council appointed by the City Council.

c. Two youth members who, during their entire tenure on the Commission, shall be students of public schools administered by the School Board of the City of Richmond, Virginia, enrolled in the ninth, tenth, 11th, or 12th grades appointed by a majority vote of the voting members of the Commission.

(3) All appointments shall be otherwise governed by Sections 2-767 and 2-768.

(Code 2015, § 2-1174; Ord. No. 2018-269, § 1, 11-13-2018)

Sec. 2-1189. Qualifications.

Except for the two youth members appointed in accordance with Section 2-1188, all members of the Commission should represent a range of expertise in one or more fields, including, but not limited to, architecture, archaeology, history, and economic development.

(Code 2015, § 2-1175; Ord. No. 2018-269, § 1, 11-13-2018)

Sec. 2-1190. Terms of office.

(a) The voting members of the Commission shall serve for terms of three years. However, of the initial voting members appointed by the Mayor, three shall be appointed to one-year terms, three shall be appointed to two-year terms, and three shall be appointed to three-year terms, to facilitate the staggering of member terms. No voting member appointed by the Mayor shall be reappointed to more than one successive full term; provided, however, that a person appointed to fill an unexpired term may be reappointed to two successive full terms upon completion of the unexpired term for which the person has been appointed.

(b) The employee of the Department of Planning and Development Review shall be appointed to a term of one year and may be reappointed in the manner set forth in this division for appointments; provided, however, that such a person reappointed as an employee of the Department of Planning and Development Review meets the applicable requirements set forth in Section 2-1188. The member of the City Council shall be appointed to a term coincident with such member's term as a member of the City Council and may be reappointed in the manner set forth in this division for appointments; provided, however, that such a person reappointed as a member of the City Council meets the applicable requirements set forth in Section 2-1188. Each of the two youth members shall be appointed to one term commencing June 1 and ending May 31 of the immediately succeeding calendar year. No youth member shall serve more than one term; provided, however, that a person appointed as a youth member to fill an unexpired term may be reappointed to one successive full term upon completion of the unexpired term for which the person has been appointed, as long as such person meets the applicable requirements set forth in Section 2-1188.

(c) All other aspects of the Commission and its membership not addressed in this division shall be governed by Chapter 2, Article V, Division 1.

(Code 2015, § 2-1176; Ord. No. 2018-269, § 1, 11-13-2018)

Sec. 2-1191. Duties.

The Commission shall serve as an advisory body to the Mayor and the Department of Planning and

Development Review. The Commission shall monitor, evaluate, and provide advice and recommendations to the Mayor and the Department of Planning and Development Review concerning issues of historical, cultural, and economic significance within the City of Richmond. In addition, the Commission shall perform the following duties:

(1) Provide the Mayor, the Department of Planning and Development Review, and the public with information and recommendations regarding the preservation of or interpretive signage for any areas, structures, sites, and objects that are significant elements of the cultural, social, economic, political, or architectural history of the City of Richmond.

(2) Facilitate public awareness of the City of Richmond's history, culture, and undertakings involving historic or cultural sites.

(3) Comply with the provisions of Sections 8-7 through 8-10 when making any recommendations to name or rename any City facility as defined in Section 8-7.

(Code 2015, § 2-1177; Ord. No. 2018-269, § 1, 11-13-2018; Ord. No. 2019-034, § 1, 3-11-2019)

Sec. 2-1192. Administration.

(a) *Quorum*. Five voting members of the Commission shall constitute a quorum.

(b) *Officers*. The Commission shall select from among voting members a Chair, Vice-Chair, and such other officers as it may deem necessary to discharge its functions.

(c) *Meetings*. The Commission shall meet at least once every two months and as often as the Commission may deem necessary.

(d) *Reporting*. Within 15 days after the end of each quarter, the Commission shall provide the Mayor and the Director of Planning and Development Review with a report on the Commission's activities and accomplishments for the preceding quarter.

(e) *Freedom of Information*. The Commission shall keep minutes of its meetings in accordance with the requirements of the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

(f) *Procedures*. The Commission may adopt rules of procedure or bylaws, approved as to form and legality by the City Attorney and not inconsistent with this division or other applicable law, to govern the conduct of its meetings and affairs. For purposes of Section 2-773, the Commission is classified as "advisory."

(g) *Staff and resources*. The Director of Planning and Development Review shall assign one or more employees of the Department of Planning and Development Review to provide the necessary support for the Commission subject to the appropriation of sufficient funds therefor.

(Code 2015, § 2-1178; Ord. No. 2018-269, § 1, 11-13-2018)

Secs. 2-1193—2-1202. Reserved.

ARTICLE VI. PERSONNEL*

***Cross reference—**Officers and employees, § 2-57 et seq.; personnel board, § 2-926 et seq.

DIVISION 1. GENERALLY

Sec. 2-1203. Advertisement of job vacancies in unclassified service.

Unless otherwise authorized by the Council's Organizational Development Committee, all vacancies for positions of employment in the unclassified service, other than temporary or acting positions, shall be advertised in at least one newspaper of general circulation, may be advertised in professional journals and other publications when appropriate, and shall be posted internally for the information of all City employees. Each advertisement and posting shall direct potential applicants to the location on the City's website at which they can view the minimum qualifications required and the time, place, and manner for making application; and each shall denote that the City is "an equal opportunity employer."

(Code 1993, § 2-80; Code 2004, § 2-1111; Code 2015, § 2-1182; Ord. No. 2017-122, § 1, 6-26-2017)

Sec. 2-1204. Residency of certain officers and employees.

(a) For the purposes of this section, words or terms not specially defined shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context. For purposes of this section, the term "principal residence" means that address where the employee can provide written documentation of the following:

(1) The payment of a mortgage or rent.

(2) The listing in the employee's name of household utility accounts, such as gas, electricity, telephone, water, stormwater, wastewater, cable television, and internet access.

(3) The receipt of U.S. mail.

(4) The use of such address for voter registration, vehicle registration, and the filing of Federal, State and local tax returns.

(b) The persons holding the following enumerated positions in the City government shall be required to have their principal residence within the City during their continuance in such office or employment:

(1) Chief of Fire and Emergency Services.

(2) Chief of Police.

(3) Chief Administrative Officer.

(4) Director of Emergency Communications.

(5) Director of Public Utilities.

(6) Director of Public Works.

(7) Director of Social Services.

(8) Director of Information Technology.

(9) Deputy Chief Administrative Officer.

(10) Council Chief of Staff.

(11) City Attorney.

(12) City Clerk.

(c) Notwithstanding the requirement to reside within the City as provided in subsection (b) of this section, all persons who are appointed to hold any of the positions listed in subsection (b) of this section and who have their principal residence within a 100-mile radius of the City's corporate boundaries at the time of their appointment may maintain such existing residence upon obtaining a residency waiver. A request for a residency waiver may be considered by an appointing authority only upon receipt of written documentation from the person selected demonstrating either of the following situations:

(1) Moving to the City will cause such person to either lose on the sale of the existing residence or expend on the purchase of a new residence an amount of money greater than twice the amount of increase in annual salary generated by the appointment;

(2) Moving to the City will cause such person to lose eligibility for special educational, medical or other special family services which are not available in the City; or

(3) Such person is the sole caretaker of an immediate family member and has to maintain such person's residence in close proximity to that family member to continue to provide such care.

(d) Any person employed or appointed on a full-time basis to fill any position subject to the residence requirements of this section shall establish a principal residence within the City not later than 12 months after commencing work in such position. The appointing authority shall, in such instances, obtain a written acknowledgment of the residence requirement from the person appointed before such person commences work in the position.

(e) No other officer or employee of the City shall be required to live in the City, except as may otherwise be provided under the Charter or applicable State law.

(f) Any person occupying a position to which the residence requirements would otherwise apply, but who, prior to July 1, 2018, was not required to maintain a principal residence within the City, shall not, by virtue of adoption of the ordinance from which this section is derived, be required to establish a principal residence in the City. Such person, however, shall be subject to the residence requirements if promoted to a more responsible position after adoption of the ordinance from which this section is derived.

(Code 1993, § 2-81; Code 2004, § 2-1112; Code 2015, § 2-1183; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-206-182, § 1, 9-12-2005; Ord. No. 2005-290-247, § 1, 11-14-2005; Ord. No. 2006-147-162, § 1, 6-12-2006; Ord. No. 2007-287-255, § 1, 11-12-2007; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2018-080, § 1, 5-14-2018; Ord. No. 2018-110, § 1, 1-28-2019)

State law reference—Restrictions on residency requirements, Code of Virginia, § 15.2-1505.

Sec. 2-1205. Oath of office.

(a) *Generally.* Every member of the City Council, every officer appointed pursuant to the provisions of the Charter or by the Council, every member of a board or commission provided for by the Charter or otherwise created by law or ordinance, and every member of the regular and special police force provided for by the Charter shall take the following oath before entering upon the duties of such office:

> I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Virginia, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____, according to the best of my ability. So help me God.

(b) *Administration; place of filing.* The City Clerk shall administer the oath of office before the individual shall act in such office, and, in the City Clerk's absence, the oath may be administered by any judicial officer having jurisdiction in the City. A certificate of such oath shall be filed in the Office of the City Clerk.

(c) *Affirmation as substitution.* If any person required to take the oath has religious scruples as to the propriety of taking an oath, the person may make a solemn affirmation, which shall have in all respects the same effect as an oath.

(Code 1993, § 2-82; Code 2004, § 2-1113; Code 2015, § 2-1184)

Charter reference—Authority of Council to provide for oaths of officers and employees, § 4.02(e); administration of oaths to Mayor and Council by City Clerk, § 4.05.

State law reference—Oaths and bonds, Code of Virginia, § 15.2-1512; oaths generally, Code of Virginia, § 49-1 et seq.

Sec. 2-1206. Official bonds.

(a) The Director of Finance is authorized and directed to procure a blanket corporate surety bond covering all persons holding positions as officers and employees of the City in such form as shall be approved by the City Attorney. Such bond shall be in the amount of $50,000.00 for each such person and shall be conditioned upon the faithful performance or discharge of the duties imposed by law or ordinance and rules, regulations and requirements adopted in pursuance thereof by such persons as officers and employees of the City and by their deputies, assistants and other subordinates.

(b) The blanket corporate surety bond, as to the following officers and employees in the Department of Finance and Office of the Board of Trustees of the Richmond Retirement System, shall be in the following additional amounts:

(1) Department of Finance.

a. Director of Finance: $450,000.00.

b. Deputy Director of Finance: $150,000.00.

c. Collector of City taxes: $450,000.00.

d. Senior accountant (sinking fund accounts): $50,000.00.

e. Administrative accountant: $50,000.00.

f. Collection manager (south side): $50,000.00.

g. Office manager: $50,000.00.

(2) Executive Director of the Office of the Board of Trustees of the Retirement System: $50,000.00.

(c) The Director of Finance shall be the custodian of all of the bonds procured under this section.

(Code 1993, § 2-83; Code 2004, § 2-1114; Code 2015, § 2-1185)

Charter reference—Authority of Council to provide for surety bonds, § 4.02(e); authority of City to exercise rights without filing or executing bonds, § 20.11.

State law reference—Required bonds, Code of Virginia, § 15.2-1527; bond required of City Treasurer, Code of Virginia, § 15.2-1530; premiums on bonds, Code of Virginia, § 15.2-1532; bonds generally, Code of Virginia, § 49-12 et seq.

Sec. 2-1207. Duties of certain officers and employees supervising law enforcement officers.

(a) It shall be the duty of every officer or employee in the unclassified service charged with the duty of supervising or controlling the performance of duty by members of the Department of Police or otherwise enforcing or supervising the enforcement of any criminal law, who is subpoenaed, summoned or ordered to appear and testify in or before any court, jury, committee or other agency authorized by law to require such appearance or testimony concerning the commission of crime or violation or enforcement of any criminal law or ordinance to appear before such court, jury, committee or agency and to answer under oath any questions propounded relating thereto or to any personal knowledge with respect to the commission of crime or violation or enforcement of any criminal law or ordinance or to any personal connection therewith or participation therein.

(b) Every such officer or employee is hereby directed to so appear and answer any such questions under oath. Every such officer or employee who fails or refuses to appear or to answer under oath on any ground whatsoever any such questions so propounded shall be insubordinate and shall be dismissed from employment.

(c) Nothing in this section prevents any officer or employees in the unclassified service from claiming the constitutional right against self-incrimination or other rights or privileges (such as confidentiality of spousal communications) provided by law.

(Code 1993, § 2-84; Code 2004, § 2-1115; Code 2015, § 2-1186)

Sec. 2-1208. Off-duty employment of law enforcement officers.

Law enforcement officers of the City and deputy sheriffs may, with the permission of the Chief of Police or the City Sheriff, engage in off-duty employment which may occasionally require the use of police powers in the performance of such employment. The Chief of Police and the City Sheriff are authorized to promulgate additional reasonable rules and regulations applicable to such off-duty employment.

(Code 1993, § 2-85; Code 2004, § 2-1116; Code 2015, § 2-1187)

State law reference—Employment of off-duty officers, Code of Virginia, § 15.2-1712.

Sec. 2-1209. Homeownership incentive program.

Subject to the appropriation of funds by the City Council, the Chief Administrative Officer shall establish a program to provide financial incentives in the form of down payment assistance and closing cost assistance to sworn police officers, deputy sheriffs, public school teachers and firefighters to encourage sworn police officers, deputy sheriffs, public school teachers and firefighters to purchase their primary residence in targeted areas of the City. Each grant shall be approved by the City Council by ordinance. Neither individual grants nor lifetime cumulative grants shall exceed the maximum amounts per employee specified in Code of Virginia, § 15.2-958.2. The Chief Administrative Officer is hereby authorized to promulgate such regulations, in conformance with applicable law, as necessary to ensure the integrity of the homeownership incentive program.

(Code 2004, § 2-1117; Code 2015, § 2-1188; Ord. No. 2006-35-55, § 1, 2-27-2006; Ord. No. 2007-185-155, § 1, 6-25-2007)

Sec. 2-1210. Publication of certain hiring policies.

This section applies only to covered departments. The term "covered department" means either the Department of Police or the Department of Fire and Emergency Services. If a covered department applies any hiring policies, processes or criteria in addition to those set forth in this Code, the personnel rules or other applicable law, the covered department shall maintain such hiring policies, processes or criteria in a written form available to the public.

Publication of such hiring policies, processes or criteria by posting on the City's website is encouraged. All applicants for positions in a covered department shall be informed in writing of whether the covered department applies such hiring policies, processes or criteria and, if the covered department does apply such hiring policies, processes or criteria, of the location where applicants may examine a copy of such hiring policies, processes or criteria. The requirements of this section shall not apply to tests or examinations used to evaluate an applicant's qualifications or aptitude for employment that the City may lawfully withhold from public disclosure pursuant to the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

(Code 2004, § 2-1118; Code 2015, § 2-1189; Ord. No. 2010-141-141, § 1, 7-26-2010)

Sec. 2-1211. Certain employment application question prohibited.

Except to the extent required by Federal or State law or for positions that the Council, by resolution, has determined should not be subject to this prohibition, no electronic or paper form or other document used by the City to solicit initial applications for City employment shall contain any question pertaining to an applicant's criminal conviction history. During stages of the recruitment process after the applicant submits the initial application, the Department of Human Resources or the appointing authority shall conduct such criminal history checks as may be required by law and may conduct, in the appointing authority's discretion, such criminal history checks as may be permitted by law.

(Code 2004, § 2-1119; Code 2015, § 2-1190; Ord. No. 2013-40-43, § 1, 3-25-2013)

Sec. 2-1212. Extension of benefits to partners of City employees in same sex marriages.

To the extent now or hereafter permitted or required by law, the City hereby recognizes same sex marriages that have lawfully occurred in other states and, as such, shall extend to the partners of City employees in same sex marriages that have lawfully occurred in other states all of the benefits offered to the spouses of City employees in heterosexual marriages. To the extent now or hereafter permitted or required by law, the word "spouse" shall include the partner of a City employee in a same sex marriage that has lawfully occurred in another state.

(Code 2004, § 2-1120; Code 2015, § 2-1191; Ord. No. 2013-154-205, § 1, 10-28-2013)

Secs. 2-1213—2-1222. Reserved.

DIVISION 2. COMPENSATION

Sec. 2-1223. Payment of salaries or wages.

(a) The officers and employees of the departments, bureaus, boards, commissions, offices and agencies of the City shall be paid their salaries or wages biweekly on alternate Fridays or as near thereto as possible. Such payments made to those on an annually salary scale shall be measured by 1/26 of the prescribed annual compensation. When any of such days shall fall on a legal holiday, such salaries or wages, with the approval of the Chief Administrative Officer, may be paid on the first working day thereafter or after banking hours on the last working day before such holiday.

(b) The Chief Administrative Officer is authorized to make rules and regulations, not in conflict with this section, concerning the delivery of checks, payroll cutoff dates for employees compensated on the basis of hours or days worked and other matters relating to this section.

(Code 1993, § 2-101; Code 2004, § 2-1146; Code 2015, § 2-1216; Ord. No. 2004-360-330, § 1, 12-13-2004)

Editor's note—The pay plan ordinance is not included in this Code but is saved from repeal and can be found on file in the Office of the City Clerk.

Sec. 2-1224. Compensation and expenses of members of Council and President of the Council.

(a) Effective upon the taking of oath of office and the assumption of duties of the members of Council elected to office by the voters of the City, the salary of the members of Council, other than the President of the Council, shall be $25,000.00 per year. Such salary shall be payable on a biweekly basis in accordance with Code of Virginia, § 15.2-1414.5.

(b) The salary of the President of the Council shall be $27,000.00 per year. Such salary shall be payable on a biweekly basis in accordance with Code of Virginia, § 15.2-1414.5.

(c) In addition to the salaries provided in this section, the members of the Council, in accordance with Section 4.01 of the Charter and Code of Virginia, § 15.2-1414.6, subject to the approval of the City Council, may also be allowed their reasonable actual expenses incurred in representing the City.

(Code 1993, § 2-102; Code 2004, § 2-1147; Code 2015, § 2-1217; Ord. No. 2005-64-51, § 1, 4-25-2005; Ord. No. 2005-202-171, § 1, 7-25-2005)

Sec. 2-1225. Assignment of salaries and wages.

The Director of Finance shall accept an order for assignment of salaries and wages from any officer or employee of the City government and accept an order or assignment of salaries and wages from any officer or employee of any board, commission, office, agency, circuit court or district court of the City when so certified by such board, commission, office, agency, circuit court or district court for the following purposes only:

(1) Assignments required by Federal or State law.

(2) Assignments for an officer's or employee's share of the cost of any program conducted or sponsored by the City or by the School Board of the City, and which program is designed for the benefit of such officers and employees and the cost or a portion of the cost of providing such program is borne by the City or by the School Board.

(3) Assignments for the purpose of purchasing United States savings bonds.

(4) Assignments for the purpose of subscribing to shares of any credit union consisting only of officers and employees of the City and available to all officers and employees of the City or all officers and employees in any department or agency of the City, including the public schools of the City, and assignments for paying, securing or guaranteeing the payment of money borrowed from such credit unions.

(5) Assignments to charitable and eleemosynary institutions and associations to which the City is permitted to contribute by law which are of general interest to City officers and employees.

(6) Payment of such officers' or employees' membership dues to an employee organization.

(7) Payment to a deferred compensation plan established on behalf of the elected officials, officers and employees of the City.

(8) Assignments for the purpose of paying premiums to employee-funded dental care programs, approved by the City, the administrative costs of which are borne by or shared by the City.

(Code 1993, § 2-103; Code 2004, § 2-1148; Code 2015, § 2-1218)

Sec. 2-1226. Automobile allowances prohibited; mileage reimbursements allowed.

(a) It shall be unlawful for any officer or employee of the City to pay, authorize the payment of or receive any allowance for automobile expenses incurred by officers or employees of the City as a result of local travel in the daily performance of their jobs, whether in a lump sum or periodic payment, except as provided in subsection (b) of this section.

(b) Officers and employees of the City using their personal vehicles for local travel in the daily performance of their jobs may be reimbursed at the current vehicle mileage rate set by the Mayor by administrative regulation, provided that:

(1) The rate of reimbursement per mile shall not exceed the standard rate deductible as a business expense pursuant to the Internal Revenue Code and regulations promulgated thereunder; and

(2) The officers and employees have completed the documentation prescribed by the administrative regulation in order to justify the mileage reimbursement.

(Code 2004, § 2-1149; Code 2015, § 2-1219; Ord. No. 2008-126-157, § 1, 6-23-2008)

State law reference—Travel expenses, Code of Virginia, § 15.2-1508.1.

Sec. 2-1227. Reimbursement for the cost of airfare.

(a) *Generally.* Notwithstanding any other provision of law to the contrary, officers and employees of the City traveling by air in the performance of their duties may be reimbursed for the cost of airfare associated with

such travel, provided that:

(1) Such officers or employees travel by airlines on a list, which shall be developed and maintained by the Chief Administrative Officer or the designee thereof, of airlines commonly referred to as low-fare airlines; and

(2) The officers and employees have completed any documentation as may be prescribed by administrative regulation issued by the Mayor in order to justify reimbursement for such charges.

(b) *Applicability*. Whenever air travel by an airline included on the list of low-fare airlines in accordance with subsection (a) of this section is not available or conducive due to scheduling, officers and employees of the City shall not be required to obtain the written permission of the Chief Administrative Officer or the designee thereof, or the appointing authority, as the case may be.

(c) *Exceptions*. The Chief Administrative Officer or the designee thereof or, in the case of officers and employees who do not and whose appointing authorities do not report to the Chief Administrative Officer, the appointing authority may grant written permission for air travel by airlines not included on the list of low-fare airlines in accordance with subsection (a) of this section or for business class travel under the following circumstances:

(1) When it does not cost more than the lowest available tourist or coach fare.

(2) For travel to Western Europe, if the business meeting is conducted within three hours of landing.

(3) For transoceanic, intercontinental trips involving a flight-time of more than eight consecutive hours.

(4) If the traveler pays the difference between the lowest available tourist or coach fare and the cost to travel by an airline not included on the list of low-fare airlines in accordance with subsection (a) of this section or business class.

(5) If travel by an airline included on the list of low-fare airlines in accordance with subsection (a) of this section is not feasible or practical.

(Code 2004, § 2-1150; Code 2015, § 2-1220; Ord. No. 2011-30-52, § 1, 3-28-2011)

Secs. 2-1228—2-1243. Reserved.

DIVISION 3. DEFERRED COMPENSATION PLAN

Sec. 2-1244. Adoption, participation by employees.

The deferred compensation plan of the International City Management Association Retirement Corporation, as amended through the effective date of the ordinance from which this division is derived and as this division shall be amended with approval of the Internal Revenue Service of the United States, is hereby adopted as the deferred compensation plan for the elected officials, officers and employees of the City. The Chief Administrative Officer is authorized and directed on behalf of the City to execute two documents, one entitled "Deferred Compensation Plan," in substantially the same form as the copy attached to the draft of the ordinance adding this section to the Code; the second, entitled "Declaration of Trust of the ICMA Retirement Trust." Such documents, entitled "Deferred Compensation Plan," together with the "Declaration of Trust" appended to the "Deferred Compensation Plan," be and are hereby incorporated into and made a part of this section as fully as if set out. Eligibility of any elected official, officer or employee to participate in the plan shall be in accordance with the provisions of the plan; provided, however, no elected official, officer or employee of the City shall be required to nor directed to participate in the deferred compensation plan.

(Code 1993, § 2-121; Code 2004, § 2-1176; Code 2015, § 2-1244; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1245. Administration, execution of joinder.

The Chief Administrative Officer is hereby authorized and directed to administer the deferred compensation plan adopted in Section 2-1244 and is directed to do all things necessary to supervise, administer and implement the plan as may be requisite. The Chief Administrative Officer may execute on behalf of the City joinder agreements with any elected official, officer or employee of the City for the elected official's, officer's or employee's participating in the plan and may execute all other agreements necessary to enable elected officials, officers or

employees to participate in the plan.

(Code 1993, § 2-122; Code 2004, § 2-1177; Code 2015, § 2-1245; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1246. Reporting of certain contributions.

No bonus or similar payment in the form of a contribution by the City to any deferred compensation plan for the benefit of any elected official, officer, or employee of the City shall be authorized or made unless and until the amount of such contribution and the name and title of the elected official, officer, or employee for whose benefit such contribution is to be made has been reported in writing to the City Council.

(Code 2015, § 2-1246; Ord. No. 2016-198, § 1, 9-26-2016)

Secs. 2-1247—2-1263. Reserved.

DIVISION 4. PERSONNEL SYSTEM*

***Charter reference—**Personnel system rules and regulations, § 5A.03.

Sec. 2-1264. Created.

Pursuant to Code of Virginia, § 15.2-1131, the Council establishes a personnel system for the City's administrative officers and employees. Such personnel system shall be based on merit and professional ability and shall not discriminate on the basis of race, national origin, religion, sex, age, disabilities, political affiliation or marital status. The personnel system shall consist of rules which provide for the general administration of personnel matters, classification plans for employees, uniform pay plans and a procedure for resolving grievances of employees as provided by general law for either local government or State government employees.

(Code 1993, § 2-126; Code 2004, § 2-1206; Code 2015, § 2-1264)

Sec. 2-1265. Personnel rules.

(a) Either the Mayor or the Personnel Board may initiate proposed personnel rules or amendments thereto. For any personnel rule or amendment initiated by the Personnel Board, it shall conduct a public hearing. Prior to conducting the public hearing, the Personnel Board shall solicit comments from the Mayor. Following its public hearing, the Personnel Board shall forward its comments and recommendations to the Council and the Mayor as provided for in Code of Virginia, § 15.2-1131. The City Mayor shall forward the recommendations of the Personnel Board, along with the Mayor's comments and recommendations, to the Council within 30 days of the Mayor's receipt of such recommendations.

(b) Prior to the Council's consideration of any personnel rule or amendment initiated by the Mayor, such rule or amendment shall first be referred by the City Council to the Personnel Board for a public hearing. Such public hearing shall be held by the personnel board within 30 days of the City Council's referral. Notice of such hearing shall be posted by the Personnel Board at City work facilities. Within 30 days following its public hearing, the Personnel Board shall forward to the City Council and Mayor its comments and recommendations regarding the proposed rule or amendment.

(Code 1993, § 2-127; Code 2004, § 2-1207; Code 2015, § 2-1265; Ord. No. 2004-360-330, § 1, 12-13-2004)

Secs. 2-1266—2-1288. Reserved.

DIVISION 5. CITY SERVICE

Sec. 2-1289. Classified service.

The classified service shall comprise all positions, including those in the police and fire departments, not specifically included in the unclassified service. The administration of the classified service shall be governed by the personnel rules for the classified service as adopted by the Council.

(Code 1993, § 2-130; Code 2004, § 2-1236; Code 2015, § 2-1289)

Sec. 2-1290. Unclassified service.

Individuals employed in the unclassified service shall serve at the pleasure of such person's appointing authority. The administration of the unclassified service shall be governed by applicable ordinances and resolutions

adopted by the Council and by administrative regulations promulgated by the Mayor. The unclassified service shall consist of persons employed in any positions designated as unclassified in the City's pay ordinance.

(Code 1993, § 2-131; Code 2004, § 2-1237; Code 2015, § 2-1290; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-290-247, § 1, 11-14-2005; Ord. No. 2018-320, § 1, 1-14-2019)

Sec. 2-1291. Senior executive service.

The senior executive service shall include certain executive positions designated from the unclassified service for the purpose of receiving enhanced employment benefits. The senior executive service shall consist of positions designated as senior executive in the City's pay ordinance.

(Code 1993, § 2-132; Code 2004, § 2-1238; Code 2015, § 2-1291)

Sec. 2-1292. Pay plan.

There shall be a pay plan consisting of a salary range for each class of position in the classification plan. The Director of Human Resources shall prepare and recommend to the Chief Administrative Officer a pay plan which shall be transmitted to the Council by the Mayor with the Mayor's recommendations. The Council shall have the right to adopt the pay plan by ordinance with or without modifications. When so adopted by the Council, the pay plan shall remain in effect until amended by the Council. The pay plan may contain provisions authorizing payments to be made to City employees for suggestions that increase the efficiency of or economies in the conduct of the City's business.

(Code 1993, § 2-133; Code 2004, § 2-1239; Code 2015, § 2-1292; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1293. Prohibited practices.

(a) No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test held or certification or appointment made under the personnel provisions of this article or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions or of the rules made thereunder.

(b) No officer or employee in the classified service of the City shall continue in such position after becoming a candidate for nomination or election to an office elected by voters of an election district which includes all or a part of the City or by the voters at large of the City for a constitutional office serving only the City.

(c) No person seeking appointment to or promotion in the classified or unclassified service of the City shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with such person's test, appointment, proposed appointment, promotion or proposed promotion.

(d) Electioneering in any City office, building or premises during working hours applicable thereto is hereby prohibited.

(e) Any person who, alone or with others, willfully or corruptly violates any of the subsections of this section shall be guilty of a Class 2 misdemeanor. Any person who is convicted under this section shall, for a period of five years, be ineligible for appointment to or employment in a position in the City service and shall, if such person is by an officer or employee of the City, immediately forfeit the office or position such person holds.

(Code 1993, § 2-134; Code 2004, § 2-1240; Code 2015, § 2-1293; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1294. Veteran's preference.

Any honorably discharged veteran of the Armed Forces and National Guard of the United States shall be entitled to have added to such person's evaluation for original appointment in the classified service ten points on a scale of 100 if such person is eligible for disability compensation or pension from the United States through the Department of Veterans Affairs or five points on a scale of 100 if such person is not so eligible, provided that such person is otherwise qualified and attains the minimum score required to pass such evaluation without added points. Preference is awarded only at the time of initial employment with the City and is not available for reinstatement, transfer or promotional opportunities.

(Code 1993, § 2-135; Code 2004, § 2-1241; Code 2015, § 2-1294)

State law reference—Veteran's preference, Code of Virginia, § 15.2-1509.

Sec. 2-1295. Prohibited working relationships between family members.

(a) *Appointment or employment.* No officer or employee of the City, whether classified, unclassified or otherwise, shall appoint or employ, or cause to be appointed or employed, any relative of such officer or employee to any position, classified or unclassified, within a department or other agency under the direct or indirect supervision of such officer or employee.

(b) *Supervisor-subordinate relationship.* No officer or employee of the City, whether classified, unclassified or otherwise, shall place any two persons related to each other as relatives in a supervisor-subordinate relationship in the same agency except as may be specifically authorized in accordance with applicable provisions of the personnel rules.

(c) *Acceptance of appointment or employment.* No person shall accept appointment to or employment in any position within the City from any officer or employee, whether classified, unclassified or otherwise, of the City when that officer or employee is a relative of such person.

(d) *Definition of "relative."* For purposes of this section, the word "relative" refers to any of the following relationships, whether by blood, marriage, adoption or a step-relationship: spouse, parent, grandparent, child, grandchild, brother, sister, niece, nephew, or first cousin.

(e) *Violation and penalty.* Any person who acts in violation of any of the subsections of this section when he knows or should know that such act constitutes such a violation shall be guilty of a Class 4 misdemeanor.

(f) *Ineligibility and forfeiture.* Any person who is convicted under this section shall, for a period of five years, be ineligible for appointment to or employment in a position in the City service and shall, if such person is an officer or employee of the City, immediately forfeit the office or position such person holds.

(Code 2004, § 2-1242; Code 2015, § 2-1295; Ord. No. 2005-275-241, § 1, 11-14-2005)

Secs. 2-1296—2-1305. Reserved.

ARTICLE VII. PUBLIC RECORDS*

***State law reference—**Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.

DIVISION 1. GENERALLY

Sec. 2-1306. Definitions.

For purposes of this article, the term "public record" or "record" has the meaning ascribed thereto by Code of Virginia, § 42.1-77.

(Code 1993, § 2-381; Code 2004, § 2-1291; Code 2015, § 2-1319)

Cross reference—Definitions generally, § 1-2.

State law reference—Definition, Code of Virginia, § 42.1-77.

Sec. 2-1307. Confidentiality safeguarded.

Any city records made confidential by law shall be so treated. Records which by law are required or permitted to be closed to the public shall not be deemed to be made open to the public under this article. No section of this article shall be construed to authorize or require the opening of any records ordered to be sealed by a court.

(Code 1993, § 2-382; Code 2004, § 2-1292; Code 2015, § 2-1320)

State law reference—Confidentiality safeguarded, Code of Virginia, § 42.1-78.

Sec. 2-1308. Prohibition on inappropriate use of personal and financial information.

(a) *Definitions.* As used in this section, the term "personal information" has the meaning ascribed thereto by Code of Virginia, § 2.2-3801, and the term "financial information" means information the disclosure of which is prohibited by Code of Virginia, § 58.1-3.

(b) *Applicability.* The prohibitions imposed by this section shall apply to all personal information and

financial information in the custody or possession of City officers and employees but shall not be interpreted or construed to prohibit the disclosure of any information required to be disclosed by the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

(c) *Violation.* It shall be unlawful for any City officer or employee to use any personal information or financial information, or both, lawfully collected by the City for any purpose other than the purposes set forth in the law pursuant to which such personal information or financial information, or both, was collected.

(d) *Penalty.* Each violation of this section shall be punished as a Class 3 misdemeanor.

(Code 2004, § 2-1293; Code 2015, § 2-1321; Ord. No. 2007-284-249, § 1, 11-12-2007)

Cross reference—Definitions generally, § 1-2.

Secs. 2-1309—2-1318. Reserved.

DIVISION 2. MANAGEMENT PROGRAM*

***State law reference—**Records management program, Code of Virginia, § 42.1-85.

Sec. 2-1319. Administration.

The Chief Administrative Officer shall administer a public records management program designed for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of public records of the City consistent with the Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq., and the rules, regulations or standards promulgated thereunder.

(Code 1993, § 2-383; Code 2004, § 2-1321; Code 2015, § 2-1341; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1320. Appointment and qualifications of Public Records Manager.

The Chief Administrative Officer shall appoint a Public Records Manager who shall be trained and experienced in the area of archives/record management.

(Code 1993, § 2-384; Code 2004, § 2-1322; Code 2015, § 2-1342; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1321. Duties of Public Records Manager.

It shall be the responsibility of the Public Records Manager, with the approval of the Chief Administrative Officer and upon the advice of the Public Records Management Advisory Committee, to:

(1) Develop and circulate such rules and regulations as may be necessary and proper to implement and maintain the public records management program, including the safeguarding of any records made confidential by law.

(2) Maintain a City records center to house and preserve inactive records prior to disposition.

(3) Advise and assist City departments and agencies in the preparation of records inventory, retention and destruction schedules.

(4) Approve destruction schedules before disposition of public records.

(5) Advise and assist City departments and agencies in reviewing and selecting material to be transferred to the State library for preservation or microfilming.

(6) Conduct, as the Chief Administrative Officer deems necessary, such surveys, studies and investigations to assist in promoting a proper and efficient public records management program for the City, including microfilming services and information retrieval systems.

(7) Be responsible for ensuring that all components of the City's records management program be carried out within the purview of the Virginia Public Records Act.

(Code 1993, § 2-385; Code 2004, § 2-1323; Code 2015, § 2-1343; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Confidentiality, Code of Virginia, § 42.1-78; disposition of records, Code of Virginia, § 42.1-86.1.

Sec. 2-1322. Duties of City departments and agencies.

(a) It shall be the responsibility of each City department and agency, with the advice of the Public Records Manager, to:

(1) Maintain all records with adequate and proper documentation of the organization, together with the functions, policies, decisions, procedures, and essential transactions of the department or agency.

(2) Establish and maintain an active, continuing program for the economical and efficient management of the records of the department or agency. Such program shall, among other things, provide for:

a. Effective control over the creation, maintenance and use of records in the conduct of current business.

b. Cooperation with the Public Records Manager in applying standards, procedures, and techniques designed to improve the management of records.

c. Promotion of the maintenance and security of records deemed appropriate for preservation.

d. Segregation and disposal of records of temporary value in accordance with established retention schedules.

(b) Those public records which are not required in the current operation of the office where they are made or kept and all public records which can properly be abolished or discontinued shall be transferred to the City records center or State archives so that the selected historical records of the City may be centralized, preserved and made more widely available, ensured permanent preservation or approved for destruction.

(c) Departments or agencies of the City shall designate a representative to coordinate the management of records in that department or agency. The representative shall:

(1) Coordinate all records management activities and functions within the department or agency and with the Public Records Manager.

(2) With the advice and assistance of the Public Records Manager, inventory or manage the inventory of all public records for disposition scheduling and transfer action in accordance with procedures prescribed by law and established under this article.

(3) Consult with any other personnel responsible for creation or maintenance of specific records within such person's department or agency regarding retention and transfer recommendations.

(4) Analyze records inventory dates, examine and compare divisional or unit inventories for duplication of records, and recommend to the Public Records Manager minimal retentions for all copies commensurate with legal, financial and administrative needs.

(5) Review established records retention schedules at least annually to ensure that they are complete and current.

(Code 1993, § 2-386; Code 2004, § 2-1324; Code 2015, § 2-1344)

Sec. 2-1323. Public Records Management Advisory Committee.

There shall be a Public Records Management Advisory Committee consisting of the City Attorney, City Clerk, Director of Finance, City Auditor, Director of Information Technology, and Library Director. The Committee shall advise the Chief Administrative Officer and the Public Records Manager on all matters which are submitted to the Committee involving the public records management program of the City. The Chief Administrative Officer may appoint a Deputy Chief Administrative Officer or Assistant to the Chief Administrative Officer as an additional member of the advisory committee.

(Code 1993, § 2-387; Code 2004, § 2-1325; Code 2015, § 2-1345; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-290-247, § 1, 11-14-2005)

Cross reference—Boards, commissions, committees and other agencies, § 2-767 et seq.

Sec. 2-1324. Reproduction of records and documents.

The Chief Administrative Officer may provide for the reproduction of records and documents as authorized by Code of Virginia, § 15.2-1412. Such records and documents shall be admissible into evidence in a court of law

pursuant to Code of Virginia, § 8.01-391.

(Code 1993, § 2-388; Code 2004, § 2-1326; Code 2015, § 2-1346; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 2-1325. Maintenance of rules and regulations.

All agencies, boards, commissions, departments, offices and officers of the City authorized to make rules or regulations shall maintain a current, well-indexed file of all such rules and regulations and shall make such files of rules and regulations available for public inspection. This requirement may be satisfied by the maintenance of such files electronically at the option of the body or officer promulgating the rule or regulation.

(Code 2004, § 2-1327; Code 2015, § 2-1347; Ord. No. 2004-66-66, § 2, 4-13-2004)

Secs. 2-1326—2-1335. Reserved.

DIVISION 3. WEBPAGES FOR DEVELOPMENT AND CAPITAL IMPROVEMENT PROJECTS

Sec. 2-1336. Definitions.

For purposes of this division, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Active project means a project that is funded fully or partially and is being developed and implemented.

City expenditure means a disbursement of City funds, a granting of an interest in or other right to use City-owned property, the provision by the City of a tax credit, rebate, or similar incentive, or the provision of any other City asset or in-kind service with monetary value.

Pending project means a project that is funded fully or partially and is in the scoping, design, or planning phases.

Project means any one or more of the following:

(1) A capital improvement project included in the City's capital improvement program for which at least $5,000,000.00 has been appropriated or for which the total planned appropriation over the course of the project is $5,000,000.00 or more.

(2) A project to attract, retain or expand a business, or a group of affiliated businesses, within the boundaries of the City of Richmond for the purpose of job creation, job enhancement, or job retention that involves a significant contribution from the City.

(3) A project that results in the development or redevelopment of a specific geographic area within the boundaries of the City of Richmond that involves a significant contribution from the City and is not a project described in subsection (1) or (2) of this definition.

Significant contribution means one or more City expenditures reasonably attributable to any phase of a project, whether made directly to a business or to a political subdivision, that, when considered together, total $3,000,000.00 or more.

(Code 2015, § 2-1350; Ord. No. 2015-192, § 1, 7-25-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 2-1337. General requirements.

The department of information technology shall maintain on the website of the City a webpage entitled "development and capital improvement projects." The purpose of this webpage is to provide an internet location at which public information concerning projects is electronically published for public access. For each project, the webpage shall contain a hyperlink to a subsidiary page dedicated to that project. The department of information technology shall establish procedures whereby, as the department of information technology deems appropriate, either (i) the employee or employees with responsibility for managing a project or an aspect of a project submits the information required by Section 2-1338 to the department of information technology on a regular basis and the department of information technology updates the subsidiary webpage for that project or (ii) the employee or employees with responsibility for managing a project or an aspect of a project update the subsidiary webpage for that project with the information required by Section 2-1338 on a regular basis.

(Code 2015, § 2-1351; Ord. No. 2015-192, § 1, 7-25-2016)

Sec. 2-1338. Project webpage requirements.

(a) The subsidiary webpage for each project required by Section 2-1337 shall include, to the extent applicable to that project, either the following information or a hyperlink to the location of that information for that project:

(1) A project summary.

(2) The value and source of all City expenditures and private funding for the project, itemized by each source.

(3) Information and documents authorizing, depicting or outlining details about the project, including, but not limited to, the following:

a. Pending or adopted ordinances or resolutions.

b. Written reports, studies, presentations, surveys, maps, drawings or other materials prepared for the Council, the City Planning Commission, or similar bodies; for submission to State or Federal regulatory bodies; or for the use of the employee or employees with responsibility for managing a project or an aspect of a project.

c. Executed contracts with all contract documents, including contract modifications that make changes to, extend, or renew the contract.

d. Project schedule.

(4) Project status updates on a quarterly basis for all active projects and as deemed appropriate for pending projects.

(5) The status of any permit application needed for the project.

(6) A list of City expenditures, in the same format as the City's payment register, with City expenditures that do not appear on the payment register due to the nature of the expenditure listed separately.

(7) A list of any future milestones that may be set forth in a contract to which the City is a party.

(8) Details concerning performance measures and benchmarking requirements, to the extent such measures or requirements are set forth in a contract to which the City is a party, and status updates about the progress towards meeting such measures and requirements, updated on a quarterly basis for all active projects and as deemed appropriate for pending projects.

(9) Project contact information, such as a contact person name, address, telephone number, electronic mail address, or any other contact information deemed appropriate.

This subsection shall be liberally construed to encourage the inclusion on the subsidiary webpage of each project of all information that may be of interest to the public, whether or not such information is described in this subsection.

(b) Each subsidiary webpage for a project shall provide for a feature by which the public, City employees, and other users have the ability to provide feedback.

(Code 2015, § 2-1352; Ord. No. 2015-192, § 1, 7-25-2016)

Sec. 2-1339. Exclusions.

No provision of Section 2-1338 shall be construed to require the disclosure, through the subsidiary webpage for a project or otherwise, of any information or record (i) of which applicable law prohibits the disclosure, (ii) that may be withheld from disclosure pursuant to applicable law, or (iii) of which no officer, employee or agency of the City is the custodian.

(Code 2015, § 2-1353; Ord. No. 2015-192, § 1, 7-25-2016)

Secs. 2-1340—2-1349. Reserved.

DIVISION 4. OPEN DATA AND TRANSPARENCY PROGRAM*

***State law reference—**Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.

Sec. 2-1350. Purpose.

The purpose of this division is to establish an "open data and transparency" program for the City, and it is the City's intent that, to the maximum extent possible, this division be construed to promote access by the public to useable and readable data and define the principles governing the City's administration of the program for which this division provides.

(Code 2015, § 2-1366.1; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1351. Definitions.

For the purposes of this division, the words or terms used in this division shall be interpreted as set forth in this section, except where the context clearly indicates that a different meaning is intended:

Agency means a board, commission, department, office, or like organizational unit of the City.

Agency head means the highest ranking appointed, elected, or designated authority for an agency.

Data means factual, geospatial, narrative, qualitative, quantitative, statistical, tabular, or textual information, and datasets that are maintained or created by or on behalf of the City.

Dataset means a named collection containing related data, including metadata, formatted or organized in a prescribed or specific manner, such as in tabular form.

Legal encumbrance means a restriction on the use of data deriving from intellectual property rights under Federal or State law or from a contract to which the City is a party.

Machine-readable means any widely accepted, nonproprietary, platform-independent method for formatting data that permits automated processing of such data and facilitates search capabilities.

Open data means data that is made available to the public on the internet in an open format with no fee, legal encumbrance, or registration requirement.

Open data coordinator means a City employee designated by a deputy chief administrative officer for all of the agencies that deputy chief administrative officer is assigned to coordinate, or by the Chief Administrative Officer to represent those agencies the heads of which no deputy chief administrative officer is assigned to coordinate, to perform the duties set forth in Section 2-1355(b) and elsewhere in this division.

Open data management team means the open data program manager and all open data coordinators.

Open data portal means https://data.richmondgov.com/ or a successor website established and maintained by or on behalf of the City.

Open data program manager means the Chief Administrative Officer or the designee thereof.

Open data review officer means a City employee designated by the Chief Administrative Officer to identify and resolve questions related to the appropriateness of the publication of data.

Open dataset means a dataset, published on the open data portal, access to which is free and open to the public without a requirement for registration.

Open format means a widely accepted, machine-readable, nonproprietary, platform-independent method of formatting and transmitting data that provides automated processing, analysis, and search functions.

Protected data means data access to which an agency is required by law to deny.

Sensitive data means data access to which an agency is allowed by law to deny.

(Code 2015, § 2-1366.2; Ord. No. 2017-146, § 2, 11-13-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 2-1352. General requirements.

(a) *Agency compliance.* Each agency shall comply with the requirements of this division and with the regulations and guidelines prepared in accordance with this division.

(b) *Treatment of data*. Protected data shall not be construed or published as open data and the agency that is the custodian of sensitive data retains the sole discretion to make that sensitive data open data.

(c) *Future contracts*. The requirements of this division shall be considered by the City when entering into contracts after the effective date of this division.

(d) *Third parties*. Where practicable, third parties who maintain open datasets for or on behalf of the City shall be required to identify the source and version of any such open dataset and provide a description of any modifications to the open dataset to the City agency that is the custodian of the open dataset.

(Code 2015, § 2-1366.3; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1353. Regulations.

(a) Generally. The Chief Administrative Officer or the designee thereof shall prepare regulations and guidelines, which regulations and guidelines shall be amended annually, to implement the open data and transparency program for which this division provides.

(b) Content of regulations. In addition, the regulations prepared in accordance with this division shall require practices that will enable the City to do all of the following:

(1) Release all open data in an open format through the open data portal with no legal encumbrance affecting its use, subject to the requirements of this division.

(2) Include a citation format appropriate for each open dataset and templates for such open datasets.

(3) Optimize, document, and publication of the datasets of each agency and create processes for the inclusion of open data on the open data portal.

(4) Evaluate and prioritize, through the consideration of recommendations and feedback from agencies, members of the public, including residents of the City and members of the business community, which datasets and associated metadata may be published on the open data portal as open data and make plans to develop or modify existing data collection systems or processes to make such open data available on the open data portal.

(5) Whenever technologically possible, through an automated process, publish open data on the open data portal in machine-readable format in the most current format used by the City.

(6) Ensure that open datasets on the open data portal are accurate, up-to-date, and available without registration requirement, license requirement, or without any other restrictions on their use.

(7) Use the mechanisms and processes outlined in the guidelines prepared in accordance with this division and any applicable provisions of this division to identify protected data and sensitive data and assess any potential risks to the City of treating sensitive data as open data and with the publication of datasets containing sensitive data as open datasets.

(c) The open data program manager shall work with the open data management team to develop and implement the practices needed to achieve the objectives set forth in subsection (a) of this section.

(d) Each agency shall adhere to the practices developed and implemented pursuant to this section.

(Code 2015, § 2-1366.4; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1354. Guidelines.

The guidelines prepared in accordance with this division shall require the following:

(1) Maintenance of an open data and transparency program by the open data program manager, including all modifications thereto and all documents governing the open data program and approved by the Chief Administrative Officer.

(2) A process developed by the open data program manager to ensure that open datasets are available in machine-readable formats that permit processing of data for downloading through a programming interface or bulk download that is automated where possible.

(3) Maintenance by the open data program manager of a data catalog listing all datasets for all agencies.

(4) Assessment by the open data review officer of the datasets to be published on the open data portal to identify potential risks to the City of treating sensitive data as open data within the context of datasets already available to the public.

(5) When risks resulting from the potential treatment of sensitive data as open data are identified, requirements that the open data review officer work with open data coordinators and the open data management team to implement mechanisms to mitigate the risks of treating sensitive data as open data.

(6) The approval by the Chief Administrative Officer of the list of assigned open data coordinators as part of the annual review and report for the open data program required by this division.

(7) A process developed by the open data program manager to ensure that data published in accordance with this division adheres to the requirements of this division and to the regulations and guidelines prepared in accordance with this division.

(8) Communication by the open data program manager of open data policies and standards to open data coordinators.

(9) Review and approval by the open data program manager of each dataset prior to its initial publication on the open data portal.

(10) Documentation by the open data program manager of the process for reviewing requests for datasets to be published on the open data portal, including who is designative to approve or deny such requests and the legal basis for such approval or denial.

(11) A schedule developed and administered by open data program manager for the training and support of open data coordinators.

(12) Performance by the open data review officer of an annual risk assessment of both the open data program and the data available on the open data portal, the dissemination by the open data review officer of the results of such assessments with the open data coordinators and the open data management team and inclusion of risk mitigation strategies implemented in the annual review and report for the open data program required by this division.

(13) An annual plan, presented to the Council by no later than December 31, 2017, and December 31 of every year thereafter, developed by the open data management team and administered by the open data program manager that contains each of the following details for the ensuing year:

a. Proposals for improving public access to open datasets, the management of open data processes, and the maintenance of high quality, up-to-date data with supporting documentation, if applicable.

b. A description of and proposed timeline for the publication of datasets intended to be published on the open data portal.

c. Recommendations from the open data program manager on the inclusion of historical documents on the open data portal and a schedule for the publication of historical documents approved by the Chief Administrative Officer.

d. Identification of any anticipated costs associated with operating the open data program, including the cost to implement any proposed changes.

(14) Annually update and publish the guidelines prepared in accordance with this division based on changes in applicable law, recommendations solicited from elected officials, agency heads, open data coordinators, members of the business community, and members of the public.

(Code 2015, § 2-1366.5; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1355. Duties of open data program manager; open data coordinators; open data review officer; open data management team.

(a) *Open data program manager*. The open data program manager shall perform the following duties, in addition to the duties otherwise required by this division:

(1) Administer the day to day operations of the open data program.

(2) Maintain the open datasets of all agencies subject to the requirements of this division.

(3) Maintain accurate copies of the regulations and guidelines for prepared in accordance with this division, including any interpretations of and modifications to such regulations and guidelines.

(4) Comply with all requirements of this division and with the regulations and guidelines prepared in accordance with this division.

(b) *Open data coordinators.* Open data coordinators shall perform the following duties, in addition to the duties otherwise required by this division:

(1) Serve as the point of contact for each agency subject to the requirements of this division as identified by the Chief Administrative Officer.

(2) Coordinate, on behalf of the open data coordinator's agency with the open data program manager, open data review officer, open data management team, and other City agencies, as the Chief Administrative Officer or such open data coordinator's agency head may direct, the activities necessary to implement the requirements of this division.

(3) Gather and maintain a comprehensive inventory of datasets collected, created, or maintained by the agency of which such coordinator is an employee, officer, or member, including data of the agency created, collected, or maintained on such agency's behalf by a third party.

(4) Prioritize open data to be published according to the regulations and guidelines prepared in accordance with this division.

(5) Maintain an inventory of open datasets published by the agency of which such coordinator is an employee, officer, or member.

(6) Ensure that agency open datasets and accompanying metadata are produced in machine-readable form, if technologically possible.

(7) Ensure that open datasets are published in accordance with any and all applicable timelines developed in accordance with this division.

(8) Ensure that the open datasets published by the open data coordinator's agency are accurate, current, and comply with the requirements of this division and the regulations and guidelines prepared in accordance with this division.

(9) Coordinate the publication of the datasets for the agency of which such coordinator is an employee, officer, or member with the open data management team.

(10) Report to the open data management team concerning the performance and attainment of the requirements of this division and the regulations and guidelines prepared in accordance with this division by the agency of which such coordinator is an employee, officer, or member.

(11) Comply with all requirements of this division and with the regulations and guidelines prepared in accordance with this division.

(c) *Open data review officer*. The open data review officer shall perform the following duties, in addition to the duties otherwise required by this division:

(1) Resolve any questions or issues concerning any potential risks to the City of violating privacy, violating applicable law, and compromising the security of the City's computer network infrastructure arising from the implementation of the requirements of this division, refer such questions or issues to the Chief Administrative Officer for resolution as may be required by the regulations or guidelines prepared in accordance with this division, and seek legal advice from the City Attorney where appropriate.

(2) Conduct an annual risk assessment of both the open data program and the content available on the open data portal, disseminate the results of such assessments with the open data coordinators and the open data management team and include the risk mitigation strategies implemented in the annual review and report for the open data and transparency program required by this division.

(3) Comply with all requirements of this division and with the regulations and guidelines prepared in

accordance with this division.

(d) *Open data management team*. The open data management team, which shall be led by the open data program manager, shall perform the following duties, in addition to the duties otherwise required by this division:

(1) Ensure that all open datasets comply with the requirements of this division and with the regulations and guidelines prepared in accordance with this division.

(2) Hold regular meetings, at least monthly, as the open data program manager may call, with the open data coordinators.

(3) Solicit from agency heads recommendations for the improvement of the open data program.

(4) Maintain a list of, and regularly engage with, members of the public, including residents of the City and members of the business community, to identify impediments to compliance with this division.

(5) Solicit from agencies and members of the public, including residents of the City and members of the business community, input on a prioritized list of existing datasets that should be deemed open to the public.

(6) Respond to questions from members of the public, including residents of the City and members of the business community, about the availability of datasets.

(7) Organize and participate in community forums, webinars, and speaking engagements to promote the open data program.

(8) Create opportunities and implement a mechanism (i) for members of the public, including residents of the City and members of the business community, agencies, and third party contractors of the City to provide feedback about the open data program and (ii) to generate recommendations on how the City may provide and use data, as well as on how the City may monitor and measure the success of the open data program.

(9) Comply with all requirements of this division and with the regulations and guidelines prepared in accordance with this division.

(10) Provide quarterly written reports to such standing committee of Council as may be assigned about (i) the performance of the open data portal and status of publishing requested new open datasets and (ii) each agency's performance and operation of the open data program.

(Code 2015, § 2-1366.6; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1356. Agency responsibilities.

Each agency head shall ensure that such head's agency complies with all applicable requirements of this division and with all applicable regulations and guidelines prepared in accordance with this division. In addition, the head or chair of each agency shall be responsible for annually establishing goals for agency data to be made open.

(Code 2015, § 2-1366.7; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1357. Open data portal.

(a) The Chief Administrative Officer or the designee thereof shall be responsible for maintaining the open data portal and ensuring that the open data portal may be accessed through the City's website.

(b) Data published through the open data portal will be open data. The open data program manager shall develop appropriate disclaimers and terms of use applicable to the open data portal and the data published through the open data portal and cause such disclaimers and terms of use to be posted conspicuously on the open data portal. All disclaimers and terms of use must be approved by the City Attorney or the designee thereof prior to posting.

(c) The open data management team shall ensure that each dataset published through the open data portal is associated with contact information for the City employee responsible for that dataset and with a file layout or data dictionary that provides information about field labels and field values.

(Code 2015, § 2-1366.8; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1358. Reporting.

No later than December 31, 2017, and December 31 of every year thereafter, the open data program manager shall publish and submit to the City Council an annual open data report, which shall incorporate the quarterly written reports required of agencies by this division. This report must include (i) an assessment of the open data management team's progress towards the achievement of the goals set forth in this division, (ii) a list of datasets currently available on the open data portal, (iii) statistics concerning "hits" and downloads recorded for each dataset, (iv) an assessment of how the program set forth in this division has furthered the City's strategic priorities, and (v) projections including a description and time frame for each dataset the open data management team expects to be published through the open data portal in the next year.

(Code 2015, § 2-1366.9; Ord. No. 2017-146, § 2, 11-13-2017)

Sec. 2-1359. Special requirements for reports made to Council.

(a) For purposes of this section only, the word "report" means any document submitted or presentation made by an agency to the City Council or a standing committee thereof that contains information presented in the form of one or more charts, graphs, maps, tables, or similar methods of visually organizing and presenting information.

(b) Each report submitted to the City Council or a standing committee thereof shall include a statement identifying the source of each dataset used in the creation of the report. If a dataset identified in the statement is not published through the open data portal or otherwise publicly available through a City-controlled web application or webpage at the time the report is submitted to the City Council or standing committee, the City employee who submitted the report to the City Council or standing committee shall file a copy of the dataset with the City Clerk and the open data program manager within ten working days after the City employee submitted the report to the City Council or standing committee. The City employee shall provide all data in the dataset in a machine-readable format. Upon receiving the dataset, the open data program manager shall cause the dataset to be published, except to the extent provided by Section 2-1352(b), either on the open data portal or on another City-controlled web application or webpage. For each dataset that the open data program manager publishes pursuant to this subsection, the open data program manager shall ensure that the open data portal or other City-controlled web application or webpage clearly identifies to what report the dataset relates. At the same time that the open data management team makes quarterly reports pursuant to Section 2-1355(d)(10), the open data management team shall indicate how datasets to which this subsection applies have been published.

(Code 2015, § 2-1366.10; Ord. No. 2018-127, § 1, 5-29-2018)

Secs. 2-1360—2-1370. Reserved.

ARTICLE VIII. DEVELOPMENT PLANNING

DIVISION 1. GENERALLY

Sec. 2-1371. Definitions.

The words, terms and phrases defined in this division, when used in this article, have the meanings ascribed to them in this division, except where the context clearly indicates that a different meaning is intended.

City expenditure means a disbursement of City funds, a granting of an interest in or other right to use City-owned property, or the provision of any other City asset or in-kind service with monetary value.

Economic growth area means a specific geographic area within the boundaries of the City of Richmond that is designated in the master plan as such pursuant to Section 2-1393.

Master plan means the most current master plan for the City of Richmond adopted pursuant to and in accordance with Chapter 17 of the City Charter and applicable State law, as that document may be amended from time to time.

Small area plan means a plan that is a subordinate component of the master plan and that contains all of the elements of the master plan set forth in Section 17.01 of the City Charter for a particular strategic growth area.

(Code 2015, §§ 2-1371--2-1371.4; Ord. No. 2016-090, § 2, 3-28-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 2-1372. Notices and reports.

For purposes of this article, any notice, report, or other document required to be submitted to the City Council, whether through the City Clerk or otherwise, shall be submitted in an electronic format in which the text may be manipulated using word processing computer programs commonly used by City officers and employees at the time of submission. Nothing in this section shall prevent the provision of public copies in an electronic format such as the Portable Data File format that cannot be manipulated by a person viewing the file.

(Code 2015, § 2-1372; Ord. No. 2016-090, § 2, 3-28-2016)

Sec. 2-1373. Comprehensive economic development plan.

There shall be a comprehensive economic development plan. The comprehensive economic development plan shall be (i) consistent with the master plan and the economic growth areas incorporated therein, (ii) developed with public input, and (iii) effective as of the date on which the City Council adopts a resolution approving it. The comprehensive economic development plan shall be submitted for approval to the City Council no later than December 31 of the fourth fiscal year covered by the previous comprehensive economic development plan and shall apply to a period of five fiscal years beginning on the second July 1 following the deadline for its submission to the City Council. The comprehensive economic development plan shall do all of the following:

(1) Identify targeted industry clusters.

(2) Set forth recommended project review criteria.

(3) Recommend a policy for developing potential incentive packages.

(4) Identify potential economic growth areas for designation as such in the master plan.

(5) Set forth a marketing plan for the complete execution and implementation of the comprehensive economic development plan designed to do all of the following:

a. Achieve the goals and priorities of the comprehensive economic development plan.

b. Attract new development to the City.

c. Give highest priority to the economic growth areas designated in the master plan and to the targeted industry clusters identified in the comprehensive economic development plan.

(Code 2015, § 2-1373; Ord. No. 2016-090, § 2, 3-28-2016)

Editor's note—Ord. No. 2016-090, § 3, adopted Mar. 28, 2016, provides: "That (i) the initial comprehensive economic development plan required by the new section 2-1373 of the Code of the City of Richmond (2015) adopted by section 2 of this ordinance shall apply to the period commencing July 1, 2017, and ending June 30, 2022, and shall be submitted for approval to the City Council no later than July 1, 2017, and (ii) the initial economic development implementation strategy required by the new section 2-1374 of the Code of the City of Richmond (2015) adopted by section 2 of this ordinance shall be submitted to the City Council no later than September 1, 2016."

Sec. 2-1374. Economic development implementation strategy.

There shall be an economic development implementation strategy. The economic development implementation strategy shall (i) set out the goals, objectives, and strategies for the ensuing fiscal year, (ii) be consistent with the resource levels included in the City's annual budget, the comprehensive economic development plan adopted pursuant to Section 2-1373, the master plan, and the economic growth areas designated therein, (iii) set out the manner in which the requirements of Section 2-302 will be addressed when evaluating potential projects, and (iv) effective as of the date on which the City Council adopts a resolution approving it. The economic development implementation strategy shall be submitted for approval to the City Council no later than July 1 of each fiscal year and shall apply to the fiscal year commencing on the deadline for its submission to the City Council.

(Code 2015, § 2-1374; Ord. No. 2016-090, § 2, 3-28-2016)

Secs. 2-1375—2-1390. Reserved.

DIVISION 2. ECONOMIC GROWTH AREAS

Sec. 2-1391. Process generally.

The Department of Planning and Development Review shall ensure that the master plan includes a small area plan for each economic growth area.

(Code 2015, § 2-1391; Ord. No. 2016-090, § 2, 3-28-2016)

Sec. 2-1392. Criteria for designation of economic growth areas.

The Department of Economic Development and the Department of Planning and Development Review jointly, or such other agency as the Chief Administrative Officer may designate, shall develop criteria, including public input, for the designation of a geographic area as an economic growth area in the master plan and shall furnish the City Council with a written report setting forth the recommended criteria and the basis therefor. Only criteria adopted by the City Council by resolution may be used as the basis for the designation of an economic growth area in the master plan.

(Code 2015, § 2-1392; Ord. No. 2016-090, § 2, 3-28-2016; Ord. No. 2018-078, § 1, 5-14-2018)

Sec. 2-1393. Identification of economic growth areas.

Based on the criteria adopted pursuant to Section 2-1392, the Department of Economic Development and the Department of Planning and Development review jointly, or such other agency as the Chief Administrative Officer may designate, shall identify proposed economic growth areas for inclusion in the master plan, when the master plan is updated and with public input, and shall develop a proposed small area plan for each proposed economic growth area. Economic growth areas will be identified as such in the master plan.

(Code 2015, § 2-1393; Ord. No. 2016-090, § 2, 3-28-2016; Ord. No. 2018-078, § 1, 5-14-2018)

Chapter 3

AMUSEMENTS AND ENTERTAINMENTS*

***Charter reference—**Authority of City to provide for regulation of recreational facilities, § 2.04(c); authority of Council to require permits, § 2.07; authority of City to acquire stadia, arenas, etc., § 2.03(m).

Cross reference—Businesses and business regulations, Ch. 6; advertising practices, § 6-123 et seq.; license taxes on amusements, §§ 26-940—26-947; admission taxes, § 26-694 et seq.

ARTICLE I. IN GENERAL

Sec. 3-1. Cleaning up after circus or other exhibition.

Any person who permits any lot or square of ground in the City to be used for any circus or other exhibition shall, within 24 hours after such use has ceased, clear and remove wastepaper and deposits of all kinds from any such lot or square to the satisfaction of the Director of Public Works.

(Code 1993, § 3-1; Code 2004, § 6-1; Code 2015, § 3-1)

Secs. 3-2—3-43. Reserved.

ARTICLE II. BILLIARD, POOL AND BAGATELLE ROOMS*

***Cross reference—**License tax on billiard, pool and bagatelle rooms, § 26-942.

Sec. 3-44. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Billiard room means a place where there is a table at which billiards, pool or bagatelle is played. However, such term does not include a club or business establishment in which there are exclusively kept or operated not more than three pool or billiard tables having a gross playing surface each of 3,200 square inches or less that operate on the coin-in-the-slot principle.

(Code 1993, § 3-31; Code 2004, § 6-61; Code 2015, § 3-44)

Cross reference—Definitions generally, § 1-2.

Sec. 3-45. Violations.

Any person violating any of the sections of this article shall be guilty of a Class 3 misdemeanor.

(Code 1993, § 3-35; Code 2004, § 6-62; Code 2015, § 3-45)

Sec. 3-46. Hours of operation.

(a) It shall be unlawful for any person owning, managing or operating a billiard room to keep open or operate the billiard room on any day between the hours of 12:00 midnight and 6:00 a.m. of the following day, except on Sunday, when it shall be unlawful to open or operate a billiard room before 2:00 p.m. and after 12:00 midnight. However, a billiard room complying with each of conditions in Section 3-48(a) may remain open until 4:00 a.m. in lieu of closing at 12:00 midnight on any day of the week other than Sunday.

(b) It shall be unlawful for any person, except an employee, to enter a billiard room during the hours in which it is closed.

(Code 1993, § 3-32; Code 2004, § 6-63; Code 2015, § 3-46)

Sec. 3-47. Minors prohibited.

Except as otherwise provided in Section 3-48, it shall be unlawful for any person owning, managing or operating a billiard room to allow any minor under the age of 18 years to enter the billiard room except for the transaction of business. It shall be unlawful for any such minor who is in a billiard room for the transaction of business to remain in the billiard room after the business has been transacted, and it shall be unlawful for the owner,

manager or operator of the billiard room to allow such minor to thereafter remain in the billiard room.

(Code 1993, § 3-33; Code 2004, § 6-64; Code 2015, § 3-47)

State law reference—Authority for this section, Code of Virginia, § 18.2-432.

Sec. 3-48. Exemptions for certain minors.

(a) Any person owning, managing or operating a billiard room may, in such person's discretion, allow minors between the ages of 16 years and 18 years to play or watch the play of billiards in the billiard room when:

(1) No alcoholic beverage is sold or consumed in the billiard room or in any other area or place accessible from the billiard room;

(2) The interior of the billiard room is lighted throughout at a level of 40 footcandles;

(3) No partitions, other than those for toilet facilities, are maintained in the billiard room; and

(4) No window in the billiard room is permanently covered or otherwise obstructed.

The minor shall have and shall present satisfactory proof of age. It shall be unlawful for any person owning, managing or operating a billiard room to permit any minor between the ages of 16 years and 18 years to enter the billiard room unless the provisions of this subsection are complied with.

(b) Any person owning, managing or operating a billiard room may, in such person's discretion, allow minors under the age of 16 years to play or watch the play of billiards in a billiard room under the same conditions and circumstances minors between the ages of 16 and 18 years are allowed to play or watch the play of billiards in a billiard room when each minor is accompanied by a parent or person in loco parentis or legal guardian. The person accompanying a minor under the age of 16 years shall be solely responsible for establishing the age of the minor and the relationship of the minor to such person. It shall be unlawful for any person owning, managing or operating a billiard room to permit any minor under the age of 16 years to enter the billiard room unless the provisions of this subsection are complied with.

(c) It shall be unlawful for any person to accompany a minor under the age of 16 years in a billiard room unless such person is a parent or person in loco parentis or legal guardian of the minor. It shall be unlawful for a parent, person in loco parentis or legal guardian to permit a child or ward who is under the age of 16 years to enter a billiard room unless the child or ward is accompanied by such parent, person or guardian. It shall be unlawful for a parent, person in loco parentis or legal guardian having accompanied a child or ward into a billiard room to leave the billiard room without the child or ward. It shall be unlawful for any minor who is under the age of 16 years to enter a billiard room without a parent or the person in loco parentis of the minor or the minor's legal guardian. It shall be unlawful for any person owning, managing or operating a billiard room to knowingly permit any person to violate the provisions of this subsection.

(Code 1993, § 3-34; Code 2004, § 6-65; Code 2015, § 3-48)

Secs. 3-49—3-69. Reserved.

ARTICLE III. PUBLIC DANCE HALLS*

***Cross reference—**License tax on public dance halls, § 26-945.

State law reference—Regulation of dancehalls, Code of Virginia, § 15.2-912.3.

DIVISION 1. GENERALLY

Sec. 3-70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief Administrative Officer means the Chief Administrative Officer or such other City employee or officer as the Chief Administrative Officer may designate.

Manager means any person charged with conducting the business affairs or day-to-day operations of a public dance hall.

Permit holder means the person who holds a permit issued pursuant to this article.

Person means any individual, group of individuals, corporation, partnership, association or other entity formed for the purpose of conducting business, or any combination of such, unless the context clearly indicates that a natural person is the intended meaning.

Public dance hall means any place not owned by the City open to the general public where dancing by the general public is permitted; however, a restaurant located in the City licensed under Code of Virginia, § 4.1-210 to serve food and beverages having a dance floor with an area not exceeding ten percent of the total floor area of the establishment shall not be considered a public dance hall.

(Code 1993, § 3-60; Code 2004, § 6-121; Code 2015, § 3-70; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Cross reference—Definitions generally, § 1-2.

Sec. 3-71. Violations.

(a) Any person violating any section of this article or failing to comply with any action of the Chief Administrative Officer pursuant to Section 3-99 shall be guilty of a Class 3 misdemeanor. Each day of violation of any provision of this article shall constitute a separate offense. In addition thereto and not in lieu thereof, any continuing violation of any section of this article may be enjoined by the Circuit Court upon application of the City Attorney.

(b) Neither the commencement of criminal or civil proceedings under this section nor any judgment rendered therein shall preclude the Chief Administrative Officer from taking action in accordance with Section 3-99.

(Code 1993, § 3-61; Code 2004, § 6-122; Code 2015, § 3-71; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-72. Exemptions.

This article shall not apply to any single dance:

(1) Held for benevolent or charitable purposes; or

(2) Conducted under the auspices of a governmental, religious, educational, civic or military organization.

(Code 1993, § 3-72; Code 2004, § 6-123; Code 2015, § 3-72; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-73. Security requirements.

Whenever the number of patrons in a public dance hall is at least 100, then the public dance hall shall have at least three security employees or contractors, at least one of whom shall be a law enforcement officer outside of the establishment, for every 200 patrons, and any portion thereof, dedicated to maintaining order in and around the public dance hall. For purposes of this section, the term "law enforcement officer" has the meaning ascribed to that term by Code of Virginia, § 9.1-101. All other security employees or contractors shall be "unarmed security officers" or "armed security officers" as defined by Code of Virginia, § 9.1-138 validly registered with the State Department of Criminal Justice Services as required by Code of Virginia, § 9.1-139. The permit holder for the public dance hall shall be responsible for all costs associated with fulfilling the security requirements of this section. The permit holder for the public dance hall shall be responsible for ensuring the compliance of the public dance hall with this section.

(Code 1993, § 3-73; Code 2004, § 6-124; Code 2015, § 3-73; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-74. Right of entry of police; enforcement.

The Chief of Police shall enforce this article, and for that purpose police officers may enter any public dance hall for which a permit has been granted under this article during all hours of operation.

(Code 1993, § 3-63; Code 2004, § 6-125; Code 2015, § 3-74; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-75. Entry prohibited to certain persons.

(a) No person under the age of 18 years shall remain in a public dance hall after 10:00 p.m. unless lawfully employed therein or unless accompanied by a parent or legal guardian.

(b) The manager of any public dance hall shall conduct, or cause to be conducted, a positive identification and age check of each person seeking admittance to ensure compliance with this section.

(c) It shall be unlawful for any person to falsely represent his or her age in order to gain admittance to a public dance hall or for any person to aid, abet or assist in making such false representation.

(Code 1993, § 3-64; Code 2004, § 6-126; Code 2015, § 3-75; Ord. No. 2004-175-165, § 1, 6-28-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-76. Manager to be present during operation; restrictions on hours of operation; events with promoters.

(a) Each permit holder, except an individual who is a permit holder and on the premises, shall have a designated manager, as defined in Section 3-70, present and in actual charge of the business being conducted under the permit at any time the public dance hall is in operation. Designated managers must be at least 21 years of age. The name of the designated manager of every public dance hall shall be kept posted in a conspicuous place in the public dance hall, in letters not less than one inch in size, during the time such manager is in charge.

(b) No public dance hall shall remain open after 3:00 a.m.

(c) No permit holder shall allow a promoter to sponsor any event within a public dance hall unless all persons with a controlling interest in that promoter have completed a criminal background check through the Chief of Police within the six months preceding the date of such event and the criminal background check has shown that no such person has been convicted of:

(1) Any violent felony involving a crime against a person;

(2) Any other felony within the five years preceding the date of the event;

(3) Any misdemeanor involving contributing to the delinquency of a minor within the five years preceding the date of the event;

(4) Any other criminal offense against a juvenile; or

(5) Any crime within the five years preceding the date of the event involving:

a. The possession, sale or distribution of, attempted possession, sale or distribution of, or conspiracy to possess, sell or distribute a controlled substance, alcohol or firearms; or

b. The sale or distribution of, attempted sale or distribution of, or conspiracy to sell or distribute marijuana.

The permit holder shall ensure that the promoter possesses a business license issued by the City, and the permit holder shall produce on demand by any City officer or employee a copy of such business license.

(Code 1993, § 3-65; Code 2004, § 6-127; Code 2015, § 3-76; Ord. No. 2004-175-165, § 1, 6-28-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Secs. 3-77—3-95. Reserved.

DIVISION 2. PERMIT

Sec. 3-96. Required; annual renewal; posting.

(a) No person shall conduct or operate a public dance hall in the City without a valid permit authorizing the operation of such public dance hall.

(b) Permits issued under this division shall be valid for one year from the date of issuance and must be renewed on an annual basis thereafter.

(c) Whenever two or more establishments sponsor a special event that meets the definition of a public dance hall, a separate permit shall be required for that special event in addition to the permit held by any one or more of the establishments. Such a permit shall be valid only for the duration of the special event sponsored by the establishments applying for the permit.

(d) The permit holder shall be responsible for ensuring that the permit is posted at a location within the public dance hall for which the permit is issued that is conspicuously visible to members of the general public.

(e) Permits issued under this division shall be issued in the same name as the name displayed on the applicant's business license.

(Code 1993, § 3-66; Code 2004, § 6-156; Code 2015, § 3-96; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-97. Application.

Any person desiring to obtain a permit required by this article shall submit a written application therefor to the Chief Administrative Officer, on forms prescribed by the Chief Administrative Officer, accompanied by a nonrefundable processing fee of $100.00. Such application shall contain, or have appended to it, the information required by this section.

(1) *In general.* As part of the application required by this section, each applicant shall be required to submit the following:

a. The street address where the proposed public dance hall is to be located;

b. The name, phone number, residence address of each individual who has or will have an ownership interest in the proposed public dance hall and, if the owner or owners will not be the only individuals responsible for the management of the public dance hall, in addition thereto, the names, phone numbers and residence addresses of each manager;

c. If the applicant is a corporation or other entity, such application shall include a copy of the entity's articles of incorporation, articles of organization, fictitious name report or similar documentation required by State law and shall set forth the names, phone numbers and residence addresses of the officers and directors of such corporation or other entity and the names, phone numbers and addresses of all persons having an ownership interest therein of ten percent or more;

d. A statement signed by the person authorized to sign the permit application on behalf of the applicant certifying that all information provided by or on behalf of the applicant is true and correct;

e. The name, phone number, address and signature of all persons responsible for the maintenance of the public dance hall's premises in compliance with building and fire code regulations; and

f. The name and address of the person who is designated to receive notices given pursuant to Section 3-99.

(2) *Required permits.* As part of the application required by this section, each applicant shall be required to submit copies of the following licenses and permits:

a. A valid certificate of occupancy for the establishment in the name of the applicant, issued by the Commissioner of Buildings;

b. A valid assembly permit for the establishment in the name of the applicant issued by the Fire Marshal;

c. A statement of whether or not alcoholic beverages are to be served on the premises and, if alcoholic beverages are to be served on the premises:

1. The application submitted to the Virginia Alcoholic Beverage Control Board for the establishment; or

2. A valid license issued by the Virginia Alcoholic Beverage Control Board or a writing from the Board constituting a denial of such application;

d. Any necessary health permits for the establishment required by any agency of the Commonwealth of Virginia;

e. A valid business license for the establishment; and

f. Where the applicant is submitting a valid license issued by the Virginia Alcoholic Beverage Control Board, a valid City companion license issued pursuant to the applicable requirements of Sections 26-934, 26-937 and 26-938.

(3) *Compliance with laws.* As part of the application required by this section, each applicant shall be required

to submit the following:

a. A statement of whether any of the individuals whose names are required to be set forth in the application pursuant to subsections (1)b and c of this section has ever applied for or had an ownership interest in any business entity which applied for a permit required by this article or a similar ordinance of any other county, city or town within the five years preceding the date of the application. If such statement is in the affirmative, the applicant shall give full particulars as to the nature of the application, the date thereof, and the disposition of the application;

b. As to all persons whose names are submitted pursuant to subsections (1)b and c of this section, evidence that the fully executed consent forms have been submitted to the Chief of Police necessary to enable the Chief of Police to conduct background checks sufficient to determine that the application meets the requirements of Section 3-98(a)(1) and to report the results to the Chief Administrative Officer; and

c. As to all persons whose names are submitted pursuant to subsections (1)b and c of this section, a statement from the Department of Finance that all filings or taxes of any kind due the City from such persons are paid in full and not delinquent.

(Code 1993, § 3-67; Code 2004, § 6-157; Code 2015, § 3-97; Ord. No. 2004-175-165, § 1, 6-28-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-98. Grant or denial.

(a) The Chief Administrative Officer shall issue the permit required under this article if the application for the permit contains all of the information required by Section 3-97 and:

(1) No person whose name is required to be set forth in the application pursuant to Section 3-97 or reported to the City pursuant to Section 3-101 has been convicted of:

a. Any violent felony involving a crime against a person;

b. Any other felony within the five years preceding the date of the application;

c. Any misdemeanor involving contributing to the delinquency of a minor within the five years preceding the date of the application;

d. Any other criminal offense against a juvenile; or

e. Any crime within the five years preceding the date of the application involving:

1. The possession, sale or distribution of, attempted possession, sale or distribution of, or conspiracy to possess, sell or distribute a controlled substance, alcohol or firearms; or

2. The sale or distribution of, attempted sale or distribution of, or conspiracy to sell or distribute marijuana;

(2) There has been no misrepresentation or misstatement concerning or omission of any fact, material or otherwise, in the application, whether such misrepresentation, misstatement or omission is intentional or inadvertent;

(3) No person whose name is required to be set forth in the application pursuant to Section 3-97 has been a holder of a permit revoked under Section 3-99 within three years prior to the date of the application;

(4) No person whose name is required to be set forth in the application pursuant to Section 3-97 owes any delinquent taxes of any kind to the City; and

(5) No person whose name is required to be set forth in the application pursuant to Section 3-97 owns or has owned any establishment that has been adjudicated to be a common or public nuisance pursuant to applicable State law.

(b) The Chief Administrative Officer shall grant the permit or deny the application within 45 days after receipt of a complete application. However, if the Chief Administrative Officer is unable to determine within such time whether or not the application complies with the requirements for the granting of a permit on the basis of the information provided, the Chief Administrative Officer may so notify the applicant and require the applicant to

provide such additional information as may be necessary. In such case, the Chief Administrative Officer shall have an additional 30 days from the date on which such information is furnished to grant the permit or deny the application. If the applicant fails to provide such information within the amount of time specified by the Chief Administrative Officer, the application shall be denied.

(Code 1993, § 3-68; Code 2004, § 6-158; Code 2015, § 3-98; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-99. Revocation of permit.

(a) Every permit granted under this division shall be subject to all applicable laws, ordinances and regulations.

(b) The Chief Administrative Officer may, after notice and hearing, take such action as is allowed pursuant to subsection (d) of this section if he finds, by a preponderance of the evidence presented at such hearing, that:

(1) Three or more violations of this article have occurred at the public dance hall within a 12-month period;

(2) The public dance hall has become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety;

(3) A violation of any of the provisions of the Virginia Fire Prevention Code, the Virginia Uniform Statewide Building Code, Chapter 30, or public health regulations has occurred at the public dance hall;

(4) The application contains any misrepresentation, misstatement or omission, intentional or inadvertent, concerning any information required to be provided in, or in connection with, the application;

(5) The permit has been assigned or otherwise transferred, or the permit holder has failed to provide the Chief Administrative Officer with the information required by Section 3-101;

(6) Any person whose name is required to be set forth in the application pursuant to Section 3-97 fails to make any filing required by Chapter 26 or to pay any taxes, fees or other monies due the City from that person;

(7) The applicant fails to renew his business license as required by Chapter 26;

(8) Conduct punishable under Code of Virginia, Title 18.2, Ch. 4, Art. 2.1 (Code of Virginia, § 18.2-46.1 et seq.), concerning crimes by gangs, has occurred on the premises of the public dance hall or immediately adjacent to such premises; or

(9) Any of the conditions upon which the permit was granted pursuant to Section 3-98(a) are violated.

(c) Upon the submission by the Chief of Police or his designee of a written complaint to the Chief Administrative Officer, setting forth facts which, if proven, would constitute grounds for taking any of the actions set forth in subsection (d) of this section, the Chief Administrative Officer shall promptly notify the permit holder, or his designee for receiving notice, of such complaint and schedule a hearing thereon within five days of the Chief Administrative Officer's receipt of the written complaint. Such grounds shall be limited to those set forth in subsection (b) of this section. The notice shall be personally delivered or sent by certified or regular mail to the person designated to receive such notices and shall:

(1) Set forth the grounds and the facts upon which the complaint is based or, alternatively, make reference to the complaint and contain a copy of such complaint as an attachment;

(2) State the actions which may be taken by the Chief Administrative Officer pursuant to subsection (d) of this section or, alternatively, make reference to this section and contain a copy thereof as an attachment;

(3) State the date, time and place of such hearing, which shall not be held less than seven days after the date the notice is mailed or delivered; and

(4) State that the applicant is entitled to be present at the hearing, in person or by a representative, and to present evidence on his behalf.

(d) If the Chief Administrative Officer finds, by a preponderance of the evidence presented at such hearing, that one or more of the grounds alleged in the complaint have been proven, he may:

(1) Revoke the permit;

(2) Suspend the permit until the applicant has abated the violations alleged in the complaint that the Chief Administrative Officer has found to have been proven; or

(3) Require the posting of a bond, in an amount and form satisfactory to the Chief Administrative Officer, securing to the City the compliance with all applicable laws, ordinances and regulations.

The Chief Administrative Officer shall render a decision in writing to the permit holder within ten days of the date of the hearing and shall promptly notify the permit holder, or the person designated to receive notices, and the owner of the property at which the public dance hall is located, if a person other than the permit holder, of the action taken by the Chief Administrative Officer. Such notice shall be personally delivered or sent by certified or registered mail.

(e) Any permit holder aggrieved by a decision of the Chief Administrative Officer may appeal such action to the Circuit Court by proper application filed within 30 days from the date of such decision; provided, however, that the commencement of such appeal shall not stay the action of the Chief Administrative Officer. Upon the filing of such application, the court may issue a writ of certiorari ordering the Chief Administrative Officer to produce within the time prescribed by the court, but not less than ten days, the record of his action and the documents that he considered in making the decision appealed. The Chief Administrative Officer may comply with such writ by producing certified or sworn copies of the record and documents rather than the original record and documents. In addition, the Chief Administrative Officer may submit, in writing and verified by affidavit, such other facts as may be pertinent and material to show the grounds of the decision appealed. The court shall review the record, documents and other materials produced by the Chief Administrative Officer pursuant to the issuance of the writ and may reverse or modify the decision reviewed, in whole or in part, when the court is satisfied that the decision of the Chief Administrative Officer is contrary to law or that his decision is arbitrary and constitutes an abuse of discretion. The court shall affirm the decision unless it finds that the decision is contrary to law or is arbitrary and constitutes an abuse of discretion. If the court finds that the testimony of witnesses is necessary for a proper disposition of the matter, it may hear such evidence.

(Code 1993, § 3-69; Code 2004, § 6-159; Code 2015, § 3-99; Ord. No. 2004-175-165, § 1, 6-28-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-100. Transferability.

A permit granted under this division shall not be transferable from one person to another.

(Code 1993, § 3-70; Code 2004, § 6-160; Code 2015, § 3-100; Ord. No. 2010-113-159, § 1, 9-13-2010)

Sec. 3-101. Changes in ownership, management or location.

Any change in the ownership of a controlling interest in a permit holder of a public dance hall shall invalidate the permit for such public dance hall. The permit holder of a public dance hall shall furnish the City with written notice of any change in the ownership of less than a controlling interest in the permit holder, containing all of the information required by Section 3-97(2) and (3), within 30 days of such change. Upon any change in the management of a public dance hall, the permit holder shall report the change to the Chief Administrative Officer within 14 days by submitting information sufficient for the Chief Administrative Officer to determine whether the permit holder remains in compliance with this article. Any change in the location of a public dance hall shall invalidate the permit for such public dance hall.

(Code 1993, § 3-70; Code 2004, § 6-161; Code 2015, § 3-101; Ord. No. 2004-175-165, § 1, 6-28-2004; Ord. No. 2010-113-159, § 1, 9-13-2010)

Chapter 4

ANIMALS*

***Cross reference—**Office of Animal Care and Control, § 2-398 et seq.; Dogs in cemeteries, § 7-26; domestic animals in food establishments, § 6-351; animals in festival park, § 8-346; animals at Downtown Riverfront Canal area, § 8-477; feeding birds, animals or aquatic life at Downtown Riverfront Canal area, § 8-479; nuisances, § 11-51 et seq.; health, Ch. 15; rodent control, § 15-61 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adoption means the transfer of ownership of a dog or cat from a releasing agency to an individual.

Animal means any living vertebrate creature, domestic or wild, male or female, other than Homo sapiens.

Animal control officer means a person appointed as an animal control officer pursuant to Code of Virginia, § 3.2-6555.

Animal shelter means a facility operated by a Humane Society, or by the City for the purpose of impounding or caring for animals held under the authority of this chapter.

Cat means any domestic feline animal (Felis domesticus), male or female, whether spayed or neutered.

Commercial animal establishment means any pet shop, auction, riding school, stable, kennel, zoological park, circus, hatchery, veterinary hospital, performing animal exhibition, or any lot, building, structure, enclosure, or premises used for the business of buying selling, grooming, breeding, or boarding of animals.

Companion animal means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under Federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Dangerous dog means

(1) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law enforcement officer or animal control officer finds that (i) no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or

(2) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

State law reference—Similar provisions, Code of Virginia, § 3.2-6540.

Department means the office of animal care and control.

Director means the program manager of the department or an authorized representative thereof.

Dog means any domestic animal of the specie canine (Canis familiaris), male or female, whether spayed or neutered and includes hybrid canines as defined in Section 4-213.

Dog or cat license means a privilege granted, on compliance with the terms of Chapter 26, to own, keep, harbor or have custody or control of a dog or cat legally within the City during the calendar year.

Dog or cat license tag means a metal tag for attachment to a dog or cat collar, carrying a serial number corresponding to the number of the dog or cat license for such animal, and showing the calendar year the license is in effect and the sex of the dog or cat and the name of the jurisdiction enforcing the license law.

Enclosure means confining a dog indoors or confined in an enclosed and lockable structure of sufficient height and design to prevent its escape from the owner's premises, which may include but is not limited to a fenced yard.

Fowl means all domestic birds and game birds, except pigeons, raised in captivity, including, but not limited to, chickens, ducks, geese, swans, turkeys and guinea fowl.

Harboring a dog or cat means to knowingly permit a dog or cat to remain on or about the premises occupied by such person and the providing of food, water and/or care for three or more days.

Has been bitten means has been seized with the teeth or jaws so that the skin of the person or animal seized has been nipped or gripped or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "has been bitten" also includes contact of saliva with any mucous membrane.

Humane investigator means any person designated pursuant to Code of Virginia, § 3.2-6558.

Impound means to take into custody or to place in the City animal shelter.

Kennel means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Licensed veterinarian means a veterinarian licensed by the State Board of Veterinary Examiners.

Owner means any person who:

(1) Has a right of property in an animal;

(2) Keeps or harbors an animal;

(3) Has an animal in his care; or

(4) Acts as a custodian of an animal.

Any person who knowingly permits a dog or cat to remain on or about any premises occupied by such person shall be considered to own the dog or cat. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises animals owned by others.

Provocation means any purposeful act that causes an animal to bite, scratch, or attack in protection of itself, its owner or its owner's premises. Entrance, in any manner, into an area where an animal is properly under restraint in compliance with this chapter or other City ordinances would be considered provocation, irrespective of the reason for such entrance.

Public nuisance means any animal of an owner which:

(1) Molests passersby or passing vehicles;

(2) Attacks other animals;

(3) Trespasses on school grounds, recreational areas or sites equipped and/or designated as tot lots;

(4) Is repeatedly at large;

(5) Damages private or public property; or

(6) Barks, whines, howls, or makes other annoying noises in an excessive, continuous, or untimely fashion.

Releasing agency means an animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or similar entity or home-based rescue that releases companion animals for adoption.

Restraint means a handheld leash or lead and under the effective and immediate physical control of a responsible person.

Serious injury means an injury having a reasonable potential to cause death or any injury other than a sprain

or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

Sterilization means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

To run at large and *running at large* mean to roam, loiter, walk or run on any public property or on any private property not owned, occupied or temporarily or permanently used by the animal's owner in the City.

Vaccination against rabies means the inoculation of an animal with a rabies vaccine licensed for the species by the United States Department of Agriculture and recommended in the current Compendium of Animal Rabies Vaccines prepared by the National Association of State Public Health Veterinarians.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious dog means a dog which has:

(1) Killed a person;

(2) Inflicted serious injury to a person; or

(3) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, or, on or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

(Code 1993, § 4-1; Code 2004, § 10-1; Code 2015, § 4-1; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2010-110-116, § 1, 6-28-2010; Ord. No. 2012-58-37, § 1, 4-9-2012; Ord. No. 2013-244-2014-13, § 2, 2-10-2014; Ord. No. 2020-013, § 1, 1-27-2020)

Cross reference—Definitions generally, § 1-2.

State law reference—Definitions, Code of Virginia, § 3.2-6500.

Sec. 4-2. Dogs and cats deemed personal property; rights relating to ownership.

(a) All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners may maintain any action for the killing of any such animals or injury thereto or unlawful detention or use thereof as for other personal property. The owner of any dog or cat which is injured or killed contrary to this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.

(b) An animal control officer or other officer finding a stolen dog or cat or a dog or cat held or detained contrary to law shall have authority to seize and hold such dog or cat pending action before a general district court or other court. If no such action is instituted within seven days, the animal control officer or other officer shall deliver the dog or cat to its owner.

(c) The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner, and the animal control officer may take such animal in charge and notify its legal owner to remove it. The legal owner of the animal shall pay the charge specified in Section 4-275 for the keeping of such animal while in the possession of the animal control officer.

(Code 1993, § 4-2; Code 2004, § 10-2; Code 2015, § 4-2)

State law reference—Similar provisions, Code of Virginia, § 3.2-6585.

Sec. 4-3. Inspection of animals and premises; abatement of noncomplying conditions.

Animals and premises whereon animals are kept or maintained shall be subject to inspection by the Director or an animal control officer at any reasonable hour or at any hour in an emergency. Whenever any premises where animals are kept are in an unsanitary condition or the facilities are not in keeping with this chapter or any other regulations in this chapter or if any health ordinance or law is not observed, the Director, by written notice to the person responsible for the condition of the premises or the keeping of the animals or the person owning or in control of such premises, may order the abatement of the conditions which are not in accordance with this chapter or other regulations or the conditions which constitute a nuisance. Failure to comply with such order shall, in addition to

any criminal or administrative proceedings, be grounds for and entitle the City to obtain relief by injunction.

(Code 1993, § 4-3; Code 2004, § 10-3; Code 2015, § 4-3)

Secs. 4-4—4-24. Reserved.

ARTICLE II. ANIMAL CONTROL

DIVISION 1. GENERALLY

Secs. 4-25—4-51. Reserved.

DIVISION 2. ANIMAL CONTROL OFFICER, FACILITIES AND IMPOUNDMENT*

***Cross reference—**Officers and employees, § 2-57 et seq.

Sec. 4-52. Appointment and powers of animal control officer.

Pursuant to Code of Virginia, § 3.2-6555, the City Council shall appoint and may remove an animal control officer and such deputy animal control officers as necessary to enforce this article. The animal control officer and deputy officers shall have the power to enforce this article, all ordinances enacted pursuant to this article and all laws for the protection of domestic animals.

(Code 1993, § 4-21; Code 2004, § 10-56; Code 2015, § 4-52)

Cross reference—Office of Animal Care and Control, § 2-398 et seq.

State law reference—Animal control officers, Code of Virginia, § 32-6555 et seq.

Sec. 4-53. Supervision and control of animal shelter; impoundment and release procedures.

(a) The Chief Administrative Officer shall cause to be maintained an animal shelter or enclosure of a type to be approved by the Director. The City need not own the facility but may contract for its establishment with a private group or in conjunction with one or more other local governing bodies. The City animal shelter shall be accessible to the public at reasonable hours during the week.

(b) Any dog running at large or in violation of Section 4-243 and any dog or cat without the tag required by Section 4-186 shall be confined in the animal shelter. Any dog or cat which has been so confined shall be kept for a period of not less than five days unless sooner claimed by the owner of the dog or cat. If the dog or cat has not been claimed, it may be humanely destroyed or disposed of by sale or a gift to a Federal agency, State-supported institution, agency of the State, agency of another state or a licensed Federal dealer or by delivery to any local humane society, to any shelter or to any person who is a resident of the City and who will pay the required license tax on such animal. Nothing in this subsection shall prohibit the destruction of a critically injured or critically ill dog or cat for humane purposes.

(c) The Director shall supervise and control the City animal shelter and the property used in connection therewith, with power and authority to employ such personnel or employees as may be necessary.

(d) Unless the owner has purchased a valid breeding permit, no unclaimed dog or cat shall be released for adoption without being sterilized in compliance with Section 4-278.

(e) If, by a license tag or other means, the owner of an impounded dog or cat can be identified, the animal control officer shall immediately upon impoundment notify the owner as specified in Section 4-275(b).

(f) Animals may be impounded in the City animal shelter for reasonable cause as may be determined by the Director, including, but not limited to, any of the following circumstances:

(1) Any dog not kept under restraint as required by this chapter.

(2) Any dog or cat not having affixed to its collar a valid City license tag or rabies vaccination tag.

(3) Any dog or cat for which a valid City license or rabies vaccination certificate has not been issued.

(4) Any animal which constitutes a public nuisance as defined in Section 4-1.

(5) Any animal that a person could reasonably suspect as having any infectious or contagious disease other

than rabies and being in the custody of a keeper who fails or refuses to make arrangements satisfactory to the animal control officer concerning the proper treatment of such animal.

(6) Every animal that has rabies or symptoms compatible with rabies or that a person could reasonably suspect as having rabies or that bites, scratches or otherwise attacks another animal or person within the City.

(7) Any animal not kept in conformity with this chapter or State law.

(8) Any animal upon the written request from the owner thereof and to which the animal control officer agrees that such animal be humanely euthanized for the protection of the health and welfare of the public.

(g) Any animal which is the subject of a cause of action filed under this chapter or State law shall be impounded until further order of the courts.

(Code 1993, § 4-22; Code 2004, § 10-57; Code 2015, § 4-53; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Animal shelters and impoundment, Code of Virginia, §§ 3.2-6544 et seq., 3.2-6564 et seq., 3.2-6574 et seq.

Sec. 4-54. Record of impoundment.

(a) An animal control officer, law enforcement officer, humane investigator or custodian of any pound or animal shelter, upon taking custody of any animal in the course of official duties, or any representative of a humane society, upon obtaining custody of any animal on behalf of the society, shall immediately make a record of the matter. Such record shall include the following:

(1) The date on which the animal was taken into custody;

(2) The date of the making of the record;

(3) A description of the animal, including the animal's species, color, breed, sex, approximate age and approximate weight;

(4) The reason for taking custody of the animal and the location where custody was taken;

(5) The name and address of the animal's owner, if known;

(6) Any license or rabies tag, tattoo, collar or other identification number carried by or appearing on the animal; and

(7) The disposition of the animal.

(b) Records required by subsection (a) of this section shall be maintained for at least five years and shall be available for public inspection upon request. A summary of such records shall be submitted annually to the State Veterinarian in a format prescribed by the State Veterinarian.

(c) Any animal control officer or custodian of any pound who violates any section of this chapter which relates to the seizure, impoundment and custody of animals by an animal control officer may be subject to suspension or dismissal from such officer's or custodian's position.

(d) Custodians and animal control officers engaged in the operation of a pound shall be required to have a knowledge of the laws of the Commonwealth governing animals, including this chapter, as well as basic animal care.

(Code 1993, § 4-23; Code 2004, § 10-58; Code 2015, § 4-54)

State law reference—Similar provisions, Code of Virginia, § 3.2-6557(B)—(D).

Sec. 4-55. Hindering, molesting or interfering with officer.

No person shall hinder, molest or interfere with any officer or employee in the performance of any duty in connection with apprehending and impounding an animal.

(Code 1993, § 4-25; Code 2004, § 10-59; Code 2015, § 4-55)

Sec. 4-56. Spaying or neutering prior to adoption.

All dogs and cats that come into the care of the City animal shelter and subsequently become available for adoption shall be spayed or neutered prior to releasing custody of such animals for adoption. However, such dogs and cats shall not be spayed or neutered until they attain a sufficient age or size to undergo such sterilization procedure and the animal shelter has received payment of the adoption fee required by Section 4-57.

(Code 1993, § 4-26; Code 2004, § 10-60; Code 2015, § 4-56)

State law reference—Sterilization of adopted dogs and cats, Code of Virginia, § 3.2-6574.

Sec. 4-57. Adoption fee.

The City animal shelter shall charge an adoption fee for all animals that it releases for adoption. Such adoption fee shall be paid at the time of adoption and shall be an amount sufficient to allow the City to recover its actual costs expended on such animal for tests and examinations, shots and vaccinations, and spaying or neutering. This section shall not apply to animals transferred to any humane society. However, such humane society must spay or neuter, in compliance with Section 4-56, all age- or size-appropriate dogs and cats transferred from the animal shelter prior to releasing such animals for adoption or further transfer.

(Code 1993, § 4-27; Code 2004, § 10-61; Code 2015, § 4-57)

State law reference—Fee authorized, Code of Virginia, § 3.2-6579.

Sec. 4-58. Turn-in fee.

The City may charge a turn-in fee of $25.00 to any person who voluntarily turns in, delivers or otherwise relinquishes the custody of an animal to the City animal shelter or other department or agency of the City. Such turn-in fee shall be an amount sufficient to allow the City to recover the actual costs expended on conducting a preliminary assessment of the animal's health and physical condition at the time of its acceptance.

(Code 1993, § 4-28; Code 2004, § 10-62; Code 2015, § 4-58)

Secs. 4-59—4-89. Reserved.

DIVISION 3. OFFENSES GENERALLY

Sec. 4-90. Animal excreta or waste.

(a) The owner of an animal shall be responsible for the removal of any waste or excreta deposited by such owner's animal on public and private property.

(b) Waste or excreta deposited by an animal on public property or on the private property of any person other than such animal's owner shall be collected and removed immediately by such animal's owner. Animal waste or excreta deposited on any other property shall be collected and removed daily.

(c) Collection and removal of animal waste or excreta shall be in a container of such a type that, when closed, is sealable and ratproof and flytight. Such container shall be kept closed after each collection. At least once a week, each such animal owner shall cause all waste or excreta so collected to be disposed of in such a manner as not to permit fly breeding.

(Code 1993, § 4-31; Code 2004, § 10-86; Code 2015, § 4-90)

Cross reference—Solid waste, Ch. 23.

Sec. 4-91. Animals other than dogs or cats running at large.

It shall be unlawful for the owner or any person in charge thereof to permit any animal or fowl, other than dogs or cats, to run at large. The Director may seize any such animal or fowl found running at large; advertise the animal or fowl for recovery by its owner and then, if the owner does not recover the animal or fowl, advertise the animal or fowl for adoption as other animals or fowl are advertised for adoption; sell the animal or fowl to cover the expenses of locating, capturing, boarding or otherwise disposing of the animal or fowl; or dispose of the animal or fowl. Owners recovering such animals or fowl shall first reimburse the City for its actual costs in locating, capturing and boarding any such animal or fowl.

(Code 1993, § 4-33; Code 2004, § 10-87; Code 2015, § 4-91; Ord. No. 2016-030, § 1, 3-14-2016)

State law reference—Authority to regulate or prohibit running at large, Code of Virginia, § 3.2-6544.

Sec. 4-92. Keeping and running at large of hogs, pigs and fowl.

(a) No hog or pig shall be kept on any premises or allowed to go at large within the City, provided that hogs and pigs may be kept at the Maymont Park as educational exhibitions.

(b) The keeping, placement or maintenance of fowl shall be unlawful unless any person keeping, placing or maintaining fowl on any parcel of real property in the City has complied with the applicable requirements of Chapter 30 and other applicable provisions of this Code and State law.

(c) All fowl shall be kept in securely and suitably fenced areas, pens or structures designed for the purpose of the keeping of fowl.

(d) Except as provided in subsections (e) and (f) of this section, no fenced area, pen or structure for fowl shall be permitted closer than 500 feet to any house or other building used for residential purposes by anyone other than the person having a permit in accordance with Section 4-124 and maintaining such fowl for such person's immediate family.

(e) Fenced areas, pens or structures for the keeping, placement or maintenance of fowl for noncommercial purposes shall be located not less than 200 feet from all property lines. However, this subsection shall not apply to the keeping, placement or maintenance of chickens as allowed by Division 4 of this article.

(f) Fenced areas, pens or structures for the keeping, placement or maintenance of chickens as allowed by Division 4 of this article shall not be located closer than 15 feet to any dwelling on an adjacent lot, provided that no such fenced area or pen shall be located within any front yard or street side yard required by applicable provisions of Chapter 30, as the terms "front yard" and "street side yard" are defined in Section 30-1220, and no structure accessory to any such fenced area or pen shall be located within any yard required by Chapter 30.

(g) Every person maintaining any area, pen or structure for keeping fowl shall comply with the requirements set forth in Division 4 of this article and shall keep such area, pen or structure clean, sanitary and free from refuse. All feed or other material intended for consumption by birds shall be kept in containers impenetrable by rats or other rodents, and such containers shall be equipped with tightly fitting caps or lids. The presence of rats in an area, pen or structure used for the keeping of fowl shall be prima facie evidence that such area, pen or structure is maintained in violation of this section.

(Code 1993, § 4-34; Code 2004, § 10-88; Code 2015, § 4-92; Ord. No. 2013-17-35, § 1, 3-11-2013; Ord. No. 2018-294, § 1, 1-28-2019)

State law reference—Authority to regulate or prohibit running at large, Code of Virginia, § 3.2-6544.

Sec. 4-93. Permitting animals or fowl to trespass.

If the owner, possessor or manager of any animal or fowl, after receipt of a written request from the owner, tenant or person in charge of any premises to prohibit such animal or fowl from trespassing upon such premises, does not prohibit such animal or fowl from going upon the premises, the person receiving such request shall be subject to prosecution for failure to restrain and prohibit the animal or fowl from trespassing upon the other's premises and upon conviction shall be punished by imposition of a fine not to exceed $50.00 for the first offense and of a fine not to exceed $150.00 for a second and subsequent offense. However, this section shall not apply to the owner of any animal or fowl that is lured onto the premises of another with the use of bait, scents or other trapping devices.

(Code 1993, § 4-35; Code 2004, § 10-89; Code 2015, § 4-93)

State law reference—Limitation on fines, Code of Virginia, § 3.2-6543(B).

Sec. 4-94. Animals killing livestock or poultry.

(a) It shall be the duty of the animal control officer or other officer who may find an animal in the act of killing or injuring livestock or poultry to kill such animal forthwith, whether such animal bears a tag or not. Any person finding an animal committing any of the depredations mentioned in this section shall have the right to kill such animal on sight, as shall any owner of livestock or such owner's agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any animal known to be a confirmed

livestock or poultry killer, and any animal killing livestock or poultry for the third time shall be considered a confirmed killer. The court, through its contempt powers, may compel the owner, custodian, or harborer of the dog to produce the dog.

(b) Any animal control officer who has reason to believe that any animal is killing livestock or poultry shall be empowered to seize such animal solely for the purpose of examining the animal in order to determine whether it committed any of the depredations mentioned in this section. Any animal control officer or other person who has reason to believe that any animal is killing livestock or committing any of the depredations mentioned in this section shall apply to a magistrate of the City who shall issue a warrant requiring the owner or custodian, if known, to appear before a General District Court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the animal is a livestock or poultry killer or has committed any of the depredations mentioned in this section, the General District Court shall order that the animal be killed immediately by the animal control officer or other officer designated by the court or removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

(Code 1993, § 4-36; Code 2004, § 10-90; Code 2015, § 4-94)

State law reference—Similar provisions, Code of Virginia, § 3.2-6552.

Sec. 4-95. Compensation to owner of livestock or poultry killed.

(a) Any person who has any livestock or poultry killed or injured by any dog not belonging to such person shall be entitled to receive as compensation the fair market value of such livestock or poultry, not to exceed $400.00 per animal or $10.00 per fowl, provided that the claimant has furnished evidence within 60 days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog and the animal control officer has conducted an investigation and the investigation supports the claim. Upon payment under this section, the City Council shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce such in an appropriate action at law.

(b) For any person to present a false claim or to receive any money on a false claim under this section shall be a Class 1 misdemeanor.

(Code 1993, § 4-37; Code 2004, § 10-91; Code 2015, § 4-95)

State law reference—Compensation, Code of Virginia, § 3.2-6553.

Sec. 4-96. Cruelty to animals.

(a) For the purposes of this section, the term "animal" shall be construed to include birds and fowl.

(b) A person shall be guilty of a Class 1 misdemeanor if the person:

(1) Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to such person or another;

(2) Deprives any animal of necessary food, drink, shelter or emergency veterinary treatment;

(3) Sores any equine for any purpose or administers drugs or medications to alter or mask such soring for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes;

(4) Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal;

(5) Carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or

(6) Causes any of the things mentioned in subsections (b)(1) through (5) of this section or being the owner of such animal permits such acts to be done by another.

(c) Any person who abandons or dumps any dog, cat or other companion animal in any public place, including the right-of-way of any public highway, road or street, or on the property of another shall be guilty of a

Class 3 misdemeanor.

(d) It shall be unlawful for any person to fail to provide any dog with adequate space.

(1) As used in this subsection (d), the term "adequate space" has the meaning ascribed to that term by Code of Virginia, § 3.2-6500.

(2) It shall be unlawful for any person to tether a dog for more than one hour cumulatively within any 24-hour period, whether or not the tethered dog has been provided adequate space. No dog shall be tethered for any amount of time while the owner or custodian thereof is physically absent from the property where the dog is tethered. No dog shall be tethered for any amount of time in inclement, adverse, or extreme weather conditions.

(3) Each violation of either subdivision (1) or subdivision (2) of this subsection constitutes a separate violation of this subsection. The first violation of this subsection (d) shall be punished as a Class 3 misdemeanor. A second violation of this subsection (d), whether or not involving the same dog, shall be punished as a Class 2 misdemeanor. The third and each subsequent violation of this subsection (d), whether or not involving the same dog, shall be punished as a Class 1 misdemeanor.

(e) Nothing in this section shall be construed to prohibit the dehorning of cattle in a reasonable and customary manner.

(f) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including, but not limited to, Code of Virginia, Title 29.1, or to farming activities as provided under Code of Virginia, Title 3.2 or regulations promulgated thereto.

(g) In addition to the penalties provided in subsection (b) or subsection (d) of this section, the court may, in its discretion, require any person convicted of a violation of subsection (b) or subsection (d) of this section to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

(h) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a Class 1 misdemeanor. A second or subsequent violation of this subsection shall constitute a Class 6 felony.

(i) It shall be unlawful for any person to use a bullhook, ankus, baseball bat, axe handle, pitchfork or similar instruments or a tool designed to inflict pain for the purpose of training or controlling the behavior of an elephant. For purposes of this subsection, the term "use" means brandishing, exhibiting or displaying a bullhook, ankus, baseball bat, axe handle, pitchfork or similar instruments or a tool designed to inflict pain in the presence of an elephant or poking an elephant with such an instrument or tool for the purpose of training or controlling the behavior of the elephant. Any person who violates this subsection shall be guilty of a Class 2 misdemeanor.

(Code 1993, § 4-38; Code 2004, § 10-92; Code 2015, § 4-96; Ord. No. 2007-261-236, § 1, 10-22-2007; Ord. No. 2014-199-2015-80, § 1, 5-11-2015; Ord. No. 2018-275, § 1, 11-13-2018)

Cross reference—Offenses against public morals, § 19-206 et seq.

State law reference—Similar provisions, Code of Virginia, § 3.2-6570.

Sec. 4-97. Compliance with article.

It shall be unlawful for any person to violate or to fail, refuse or neglect to comply with any section of this article. Except as otherwise provided in any section of this article, upon conviction, such person shall be punished for a Class 4 misdemeanor.

(Code 1993, § 4-39; Code 2004, § 10-93; Code 2015, § 4-97)

Secs. 4-98—4-122. Reserved.

DIVISION 4. CHICKENS

Sec. 4-123. Administrative regulations.

The Director shall administer the permit process and enforce the requirements for the keeping, placement or

maintenance of female chickens on parcels of real property in residential zoning districts of the City for which this division provides and establish such rules, regulations, and any amendments thereto, not inconsistent with the provisions of this Code and other applicable laws, as the Director deems necessary for the effective administration of the permit process and the enforcement of the requirements for which this division provides. Such rules and regulations shall prescribe timeframes within which applications for permits shall be filed in accordance with Section 4-124. In addition, the Director shall establish such rules and regulations, and any amendments thereto, not inconsistent with the provisions of this Code and other applicable laws, as the Director deems necessary concerning the handling of female chickens in the City. The Director shall also prescribe standards for the approval of permits and the appropriate forms for the submission of permits by persons keeping, placing or maintaining female chickens in the City in accordance with this chapter.

(Code 2004, § 10-94; Code 2015, § 4-123; Ord. No. 2013-17-35, § 2, 3-11-2013)

Sec. 4-124. Permit requirements.

(a) *Permit required; initial and annual renewal fee.* The Director may issue permits to persons for the keeping, placement or maintenance of female chickens on any parcel or real property in residential zoning districts of the City. Roosters shall not be permitted. No person shall keep, place or maintain female chickens in the City unless, in accordance with this section or Section 4-128, if applicable, such person has filed an application for a permit, obtained a permit from the Director and has complied with the applicable provisions of this chapter and other applicable provisions of this Code and state law. Any person requesting permission to keep, place or maintain female chickens in the City shall complete an application, on a form provided by the Director, and shall submit such application to the Director within the applicable time frames prescribed in this section or as otherwise prescribed in the regulations established in accordance with this division. The Director shall review any applications submitted in accordance with this section and may issue a permit, deny the applicant's request for a permit or lawfully require further information from the applicant as may be necessary to process the application. Any initial application shall be accompanied by the payment of a permit fee of $60.00. Any permit issued in accordance with this division shall expire within 12 months from the date on which such permit was last issued and may be renewed annually upon submission of a new permit application and payment of a new permit fee of $60.00 within the time frame prescribed in the regulations established in accordance with this division. Any failure to submit a new permit application or payment of the permit fee provided for in this section within the time frame prescribed in the regulations established in accordance with this division shall result in revocation of any permission to keep, place or maintain female chickens in the City upon the day after the date on which the last permit that was issued is to expire. However, in the case of an applicant whose permit expires during the Director's processing of such applicant's application for a new permit that has been filed within the time frames prescribed in the regulations established in accordance with this division and who has complied with the provisions of this division and other applicable provisions of this Code and state law, such applicant shall not be deemed to be in violation of this division due solely to the expiration of the permit that was last issued in accordance with this section. No permit issued in accordance with this division shall permit the keeping, placement or maintenance of any more than six female chickens on any parcel of real property in residential zoning districts of the City within the 12-month period to which such permit applies. No permit shall be issued to any person having more than six female chickens on any parcel to which any such permit applies.

(b) *Filing deadline for first year after effective date of the ordinance from which this division is derived.* For the first year after the enactment date of this division, all applications for a permit in accordance with this section shall be filed within 90 days after the enactment date of this division. For the second year after the enactment date of this division and all subsequent years, unless otherwise provided by law, all applications for permits in accordance with this section shall be filed within the applicable time frames prescribed in the regulations established in accordance with this division.

(c) *Persons eligible for a permit.* Any person who owns residential real property in a residential zoning district of the City at which female chickens are to be kept, placed or maintained or who has received written approval from a person who owns residential real property in a residential zoning district of the City to keep, place or maintain female chickens on such property may apply for a permit in accordance with this section.

(d) *Background investigation.* Upon the submission of an application for a permit in accordance with this section, the Director shall conduct a background check and investigation of the applicant to determine if the

applicant has been convicted of or has any pending charges for or complaints of animal cruelty or neglect. Prior to the issuance of a permit, the Director shall also conduct a site inspection of the area in which the applicant purports to keep, place or maintain any female chickens. If, after completing the background investigation and site inspection for which this subsection provides, the Director determines that the applicant has been convicted of or has pending charges for or complaints of animal cruelty or neglect or determines that the area in which the applicant purports to keep, place or maintain any female chicken does not meet the applicable requirements of this Code or state law, the Director shall deny the permit application. Notwithstanding the requirements of this subsection, the Director may otherwise deny any permit application if any person requesting permission to keep, place or maintain female chickens has not complied with the applicable provisions of this chapter and other applicable provisions of this Code and state law.

(e) *Revocation of permit for noncompliance.* Any permit issued in accordance with this section is subject to revocation by the Director upon the failure of any person to whom the Director has issued a permit to comply with relevant provisions of this Code or state law or with any rules or regulations established in accordance with this division.

(f) *Applicant obligations*. Any person applying for a permit in accordance with this section shall sign a written statement, on a form provided by the Director, confirming that such person has read and reviewed the provisions of this division and other applicable provisions of this Code and State law concerning the keeping, placement or maintenance of female chickens and any rules or regulations established in accordance with this division.

(Code 2004, § 10-95; Code 2015, § 4-124; Ord. No. 2013-17-35, §§ 2, 3, 3-11-2013; Ord. No. 2018-294, § 1, 1-28-2019)

Sec. 4-125. Inspections.

Upon prior written notice to the person to whom a permit has been issued in accordance with Section 4-124, from time to time as the Director may determine, the Director may inspect the area in which any female chickens are kept, placed or maintained or the area in which any applicant or permittee proposes that any female chickens be kept, placed or maintained, either or both, for the purpose of ensuring compliance with the provisions of this division and other applicable provisions of this Code and State law. Such inspections shall take place at a time reasonable under the circumstances. Any failure or refusal of the applicant or permittee to allow the Director to inspect the area in which any female chickens are kept, placed or maintained or the area in which any applicant or permittee proposes that any female chickens be kept, placed or maintained, either or both, shall, as applicable, result in the denial or revocation of a permit.

(Code 2004, § 10-96; Code 2015, § 4-125; Ord. No. 2013-17-35, § 2, 3-11-2013)

Sec. 4-126. Requirements for area in which female chickens are maintained.

(a) No permit shall be issued to any person who has not complied with the requirements of this section.

(b) Any area in which female chickens are kept, placed or maintained or the area in which any applicant or permittee proposes that any female chickens be kept, placed or maintained, either or both, shall be in accordance with the requirements set forth in Section 4-92.

(c) Any female chickens kept, placed or maintained pursuant to a permit issued in accordance with Section 4-124 shall remain within the fenced area, pen or structure required by Section 4-92 at all times.

(d) Any person to whom a permit has been issued in accordance with Section 4-124 shall provide at least three square feet of space for each female chicken within a structure designed for such purpose and consisting of four walls and a roof, provided that the number of such female chickens does not exceed a total of six for the affected parcel of real property.

(Code 2004, § 10-97; Code 2015, § 4-126; Ord. No. 2013-17-35, § 2, 3-11-2013; Ord. No. 2018-294, § 1, 1-28-2019)

Sec. 4-127. Sanitation requirements.

Any person to whom the Director has issued a permit in accordance with Section 4-124 shall comply with the requirements for the care of agricultural animals set forth in Code of Virginia, § 3.2-6503.1 and any other applicable requirements of State law.

(Code 2004, § 10-98; Code 2015, § 4-127; Ord. No. 2013-17-35, § 2, 3-11-2013)

Sec. 4-128. Prior owners of female chickens.

Any person who keeps, places or maintains chickens on any parcel of real property of the City at the time of the effective date of the ordinance from which this division is derived shall, within 90 days after the effective date of the ordinance from which this division is derived, apply for a permit in accordance with Section 4-124 and shall comply with all applicable requirements of State law, this Code and any rules or regulations established in accordance therewith. Any failure of such person to apply for a permit in accordance with Section 4-124 or to comply with all applicable requirements of State law, this Code and any rules or regulations established in accordance therewith shall be deemed a violation of the provisions of this division.

(Code 2004, § 10-99; Code 2015, § 4-128; Ord. No. 2013-17-35, § 2, 3-11-2013)

Sec. 4-129. Criminal violations.

Any person who abuses, neglects or otherwise harms any chicken shall be guilty of a violation of Section 4-96 and shall be subject to the criminal penalties prescribed therein.

(Code 2004, § 10-100; Code 2015, § 4-129; Ord. No. 2013-17-35, § 2, 3-11-2013)

Sec. 4-130. Evaluation of permit process.

Within 180 days of the effective date of the ordinance from which this division is derived, the Director shall conduct an evaluation and analysis of the permit process for which this division provides and submit a report to the Council concerning any necessary amendments to the applicable distance requirements set forth in this chapter and any other provisions of this Code for the keeping, placement or maintenance of female chickens in the City.

(Code 2004, § 10-101; Code 2015, § 4-130; Ord. No. 2013-17-35, § 2, 3-11-2013)

Secs. 4-131—4-158. Reserved.

ARTICLE III. DOGS AND CATS*

***Cross reference—**Dogs in cemeteries, § 7-26.

DIVISION 1. GENERALLY

Secs. 4-159—4-184. Reserved.

DIVISION 2. LICENSES*

***Cross reference—**Dog and cat license taxes, § 26-817 et seq.

State law reference—License, Code of Virginia, § 3.2-6534 et seq.

Sec. 4-185. Required.

Every dog or cat in the City that is four months old or older shall be licensed. It shall be unlawful for any person who is a resident of the City and who has a right of property in a dog or cat of that age kept in the City, who otherwise keeps or harbors a dog or cat of that age in the City, who has a dog or cat of that age in the City in such person's care or who acts as custodian of a dog or cat of that age kept in the City to keep, harbor, care for or act as custodian of the dog or cat unless the dog or cat is licensed and the license tax is paid as provided for and required by Code of Virginia, Title 3.2, Ch. 35, Art. 5 (Code of Virginia, § 3.2-6521 et seq.).

(Code 1993, § 4-51; Code 2004, § 10-146; Code 2015, § 4-185)

Sec. 4-186. Collar and tag.

(a) Every dog and cat required to be licensed by Chapter 26, Article XIII, shall wear a collar, and the dog or cat license tag required to be obtained by such article shall be securely fastened to the collar by the licensee, except under the conditions set out in Code of Virginia, § 3.2-6531; that is:

(1) The dog is engaged in lawful hunting;

(2) The dog or cat is competing in a dog or cat show;

(3) The dog or cat has a skin condition which would be exacerbated by the wearing of a collar;

(4) The dog or cat is confined; or

(5) The dog is under the immediate control of its owner in compliance with the restraint law.

It shall be unlawful for any owner of a dog or cat to fail to comply with the requirements of this subsection. Any citation or summons for a violation of this subsection may provide that, in lieu of the person upon whom citation or summons is served appearing in court, such person may, within five working days of service of such citation or summons, pay a fine of $15.00 if such citation or summons is for a first offense or a fine of $25.00 if it is for a second or subsequent offense. Such fine shall be in addition to the fine imposed for unrestrained dogs. If the dog or cat is a kennel dog or cat, the license issued for the kennel may be revoked by the judge trying the case if it appears to the judge that such violation occurred by reason of carelessness or negligence on the part of such person, who shall thereafter be required by the judge to secure an individual license for each dog and cat in the kennel.

(b) Every dog and cat that has been vaccinated or otherwise treated for immunization against rabies shall wear a collar and tag of such material and design as shall be prescribed by the Director and on which shall appear the year in which the dog or cat was last vaccinated or treated, which shall be securely fastened to the collar, except under the conditions set out in Code of Virginia, § 3.2-6531. It shall be unlawful for any owner of a dog or cat to fail to comply with the requirements of this subsection. Any citation or summons for a violation of this subsection may provide that, in lieu of the person upon which summons or citation is served appearing in court, such person may, within five working days of service of such citation or summons, pay a fine of $15.00 if such citation or summons is for a first offense or a fine of $25.00 if it is for a second or subsequent offense. Such fine shall be in addition to the fine imposed for unrestrained dogs.

(Code 1993, § 4-52; Code 2004, § 10-147; Code 2015, § 4-186)

Sec. 4-187. License and permit revocation; administrative proceedings.

(a) *Administrative hearing; Hearing Officer.* Procedures for holding an administrative hearing regarding the revocation of a dog or cat license or permit and the duties of the Hearing Officer shall be as follows:

(1) The Director shall serve as a Hearing Officer and shall be authorized to hold an administrative hearing to determine whether any license or permit issued pursuant to the sections requiring licensing of dogs and cats should be revoked or to otherwise regulate the keeping of an animal within the City, if the license or permit holder or owner of an unlicensed animal refuses or fails to comply with any section of this chapter, the regulations promulgated by the Director, or any law governing the protection and keeping of animals.

(2) The Hearing Officer must hold an administrative hearing to determine whether any license or permit issued pursuant to the sections requiring licensing of dogs and cats should be revoked or to otherwise regulate the keeping of an animal within the City if:

a. An animal has been impounded for a second, unprovoked biting offense.

b. An animal has been the subject of three criminal charges resulting in conviction or three impoundments or any combination of three such convictions or impounding incidents, or both, within 24 months immediately preceding the date of the last such incident. Impoundments which occurred as a result of provoked biting, attacking or scratching incidents shall not be considered for purposes of this subsection.

c. Any animal has been kept or maintained on any premises in violation of any section of this chapter.

d. The holder of a commercial permit fails to comply with the provisions of the appropriate section or the regulations promulgated by the Director.

e. Any animal has become the subject or probable subject of a cause of action filed under this chapter or State law.

f. Any amendment to this chapter causes an owner's possession of an animal to be in conflict with this chapter, including, but not limited to, household limitations on the number of dogs and cats, limitations on fowl, or fencing requirements.

(b) *Written notice required.* No such administrative hearing shall be held without giving the license or permit holder or owner of an unlicensed animal prior written notice of the date, time and place of the hearing. Written notice shall be deemed made when a certified letter, return receipt requested, addressed to the address indicated in the holder's last permit or license application or, if no such application is on file, to the owner's last known address, is deposited in the U.S. mail. Written notice shall also be deemed made when the notice letter is delivered by an employee or representative of the Director to such address.

(c) *Disposition.* At the conclusion of the administrative hearing, the Hearing Officer shall determine if the person holding the license or permit or the owner of an unlicensed animal has violated any section of this chapter, the regulations promulgated by the Director, or any law governing the protection and keeping of the animal in question. If any such violation has been found to have occurred, the Hearing Officer may order that any of the following actions be taken within ten days thereafter:

(1) The owner divests of the animal in question either by having it humanely euthanized or by removing it from the City after first obtaining written acceptance of the animal by the chief law enforcement officer of the receiving community.

(2) The holder or owner complies with specified conditions so as to be permitted to continue to keep the animal within the City.

(3) Any other disposition deemed to be consistent with the protection of public health, safety and welfare and in accordance with this chapter or other applicable law.

(Code 1993, § 4-53; Code 2004, § 10-148; Code 2015, § 4-187; Ord. No. 2012-92-129, § 1, 9-10-2012)

State law reference—Civil enforcement, Code of Virginia, § 3.1-796.94.

Secs. 4-188—4-212. Reserved.

DIVISION 3. HYBRID CANINES*

***State law reference—**Hybrid canines, Code of Virginia, § 3.2-6581 et seq.

Sec. 4-213. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate confinement means a pen or enclosure constructed as follows: the pen or enclosure shall contain at least 500 square feet of space; any fencing used in the construction of the pen or enclosure shall be at least 8 1/2 feet in height with an additional overhang of fencing or barbed wire angling a minimum of 1 1/2 feet into the pen or enclosure and not angling downward so as to fall below the 8 1/2 feet height requirement; to prevent digging out along the fence, concrete footers at least one foot wide and six inches deep shall be installed along the perimeter of the pen or enclosure, and chain link fencing shall extend 1 1/2 feet below the surface along the perimeter of the pen or enclosure and shall be secured to the structure; the pen or enclosure shall be surrounded by a fence at least four feet in height and no closer than six feet to the pen or enclosure; any fencing used in the construction of the pen or enclosure shall be of 11-gauge wire or its equivalent.

Direct supervision and control, for purposes of management of a hybrid canine, means muzzled and on a leash, lead, rope, or chain of sufficient material and condition to provide for the immediate control of the hybrid canine and under the immediate control of a competent adult handler.

Hybrid canine means the offspring resulting from the mating of a domesticated dog and a wolf, coyote or other similar wild animal or their subsequent offspring or any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, hybrid wolf, wolf, coyote, or percentage wolf or coyote by its owner, former owner, lessee or bailee to a licensed veterinarian, law enforcement officer, animal control officer, humane investigator, official of the Department of Health, or State Veterinarian's representative.

Responsible ownership means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding animals generally and hybrid canines specifically and to prevent endangerment by the hybrid canine of public health and safety.

(Code 2004, § 10-167; Code 2015, § 4-213; Ord. No. 2010-110-116, § 2, 6-28-2010)

Cross reference—Definitions generally, § 1-2.

Sec. 4-214. Permit required.

(a) It shall be unlawful for any person to own or to have in a person's custody a hybrid canine, two months or older, in the City, unless such person holds a valid permit for the ownership of such hybrid canine in accordance with the provisions of this division.

(b) Any hybrid canine permit issued in accordance with this division shall be valid for a period of no more than one year from the date of issuance. The permittee shall have sole responsibility for ensuring that all permit renewals are timely initiated to ensure that a valid permit is continuously in effect throughout the period of the permittee's ownership of a hybrid canine within the City.

(c) No person or permittee shall own more than one hybrid canine, two months or older, at any time.

(d) All permits issued in accordance with this division shall be subject to the following:

(1) Each hybrid canine shall wear a collar and tag designed and approved by the animal control officer bearing information identifying the hybrid canine as such and including the name, address, home telephone number and emergency contact telephone number of the owner and any custodian of the hybrid canine.

(2) Whenever it is on the property of its owner or custodian, each hybrid canine shall be maintained in an adequate confinement while not under the direct supervision and control of its owner or custodian. Direct supervision and control of the hybrid canine is required at all times that such animal is not maintained in an adequate confinement.

(3) Each hybrid canine shall be kept under the direct supervision and control of a competent adult handler whenever it is not on the property of its owner or custodian.

(e) A hybrid canine permit shall be issued or renewed upon review and approval by the animal control officer. The animal control officer shall determine whether to approve an application for issuance or renewal of a hybrid canine permit based upon the following criteria:

(1) The type, quality and extent of the confinement of the hybrid canine while on the property of its owner or custodian. The animal control officer shall inspect the facility proposed to house the hybrid canine to confirm that such facility meets the requirements of adequate confinement, as defined in this division;

(2) The ability to handle safely the hybrid canine while not on the property of the owner;

(3) The knowledge and demonstrated experience of the owner to adequately care for, keep, and handle hybrid canines while on or off the property of the owner; and

(4) Whether the application is complete.

(Code 2004, § 10-168; Code 2015, § 4-214; Ord. No. 2010-110-116, § 2, 6-28-2010)

Sec. 4-215. Application for and renewal of permit.

(a) Any person seeking a hybrid canine permit or to renew a hybrid canine permit shall complete and submit, together with payment of the initial application fee of $365.00, to the Department an application on a form provided by the Department that requires the following information:

(1) Name, address, phone number, emergency contact phone number and date of birth of the applicant.

(2) Species, color, date of birth, sex, vaccination history, origin, and neutered status of the hybrid canine.

(3) Photographs of the hybrid canine, current at the time of application or renewal, which show the size, color and any identifying marks or characteristics of the hybrid canine.

(4) Information as to identification tags, microchip, tattooing or other identifying marks of the hybrid canine.

(5) Name, address and phone number of the breeder of the hybrid canine or previous owner if not the breeder.

(6) Name, address and phone number of the hybrid canine's veterinarian.

(7) Copies of the hybrid canine's vaccination records required by Sections 4-366 and 4-367.

(8) If the hybrid canine is unneutered and over the age of four months, a copy of the breeder's permit required by Section 4-307.

(9) An executed consent form authorizing the City to inspect the premises where the hybrid canine is confined for the purpose of confirming compliance with the permit and this division.

(10) An executed statement certifying whether the hybrid canine has been declared dangerous in any court of law and, if so, identifying the court.

(11) Evidence of an insurance policy or rider thereto that will remain in effect for the life of the permit, specifically insuring the owner of the property upon which the adequate confinement is built and the permittee against claims arising from the bite of the hybrid canine.

(12) An executed consent form providing that, if the animal control officer determines the permittee to be in violation of any condition of the permit or of this division, the animal control officer may take the hybrid canine into the custody of the Department pending correction of the violation within seven days of the date on which the hybrid canine is taken into the custody of the Department and that, if the violation is not corrected within seven days of the date on which the hybrid canine is taken into the custody of the Department, the permittee shall remove the hybrid canine from within the City limits.

(b) The animal control officer shall review the application and inspect the hybrid canine and the proposed adequate confinement and determine whether approval is appropriate based on the criteria set forth in this section. The animal control officer shall indicate approval by certification of the application form.

(c) Upon submittal of a hybrid canine permit application certified as approved by the Department and the applicable fee as set forth in subsection (a) of this section, the Department shall issue to the applicant a hybrid canine permit. The fee for renewal of a hybrid canine permit shall be $100.00.

(Code 2004, § 10-169; Code 2015, § 4-215; Ord. No. 2010-110-116, §§ 2, 3, 6-28-2010)

Sec. 4-216. Violations, penalties.

(a) Any person, whether an owner, temporary custodian, agent, bailee or employee, violating, causing, or permitting the violation of this division regarding regulation of hybrid canines or the conditions of a hybrid canine permit shall be guilty of a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for a second or a subsequent violation.

(b) If the owner or custodian of a hybrid canine fails or refuses to obtain or renew any required permit or violates a provision of this division or any other law pertaining to the responsible ownership of the hybrid canine, then the Department may take such hybrid canine into its custody pending correction of the violation within seven days of the date on which the hybrid canine is taken into the custody of the Department. If the violation is not corrected within seven days of the date on which the hybrid canine is taken into the custody of the Department, the permittee shall remove the hybrid canine from within the City limits.

(c) In the event that any hybrid canine is found in any condition inconsistent with the requirements set forth in this division, any permit issued for such hybrid canine shall immediately be deemed null and void.

(d) The Department may revoke a permit or deny renewal of the permit if the owner has violated a provision of the permit or this division or any other law pertaining to the responsible ownership of the hybrid canine, including, but not limited to, the escape of the hybrid canine from the adequate confinement or any death, damage, or injury caused by the hybrid canine, or if the owner has failed to renew the required permit in a timely manner.

(Code 2004, § 10-170; Code 2015, § 4-216; Ord. No. 2010-110-116, § 2, 6-28-2010)

State law reference—Penalty, Code of Virginia, § 3.2-6582.

Secs. 4-217—4-240. Reserved.

DIVISION 4. CONTROL REGULATIONS

Sec. 4-241. Dangerous dogs.

(a) An animal control officer who has reason to believe that a dog within the animal control officer's jurisdiction is a dangerous dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a General District Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with this section. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court may order the owner, custodian or harborer thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Code of Virginia, Title 19.2, Ch. 15, Art. 4 (Code of Virginia, § 18.2-260 et seq.). The City shall be required to prove its case beyond a reasonable doubt.

(b) No dog shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of dog prohibited. No animal shall be found to be a dangerous dog if the threat, injury or damage was sustained by a person who was:

(1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or

(3) Provoking, tormenting, or physically abusing the animal or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal which, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, or its owner or owner's property shall be found to be a dangerous dog.

(c) The owner of any animal found by a court to be a dangerous dog shall, within 45 days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of $150.00 for the initial certificate in addition to other fees that may be authorized by law. The animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and shall ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for a fee of $85.00.

(d) (1) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence:

a. Of the animal's current rabies vaccination, if applicable;

b. That the animal has been neutered or spayed;

c. That the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed; and

d. That the owner has liability insurance coverage to the value of at least $100,000.00 that covers animal bites. However, the owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least $100,000.00.

(2) In addition, any owner who applies for a certificate or renewal thereof under this section shall not be issued a certificate or renewal thereof unless the owner presents satisfactory evidence that:

a. The owner's residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and

b. The animal has been permanently identified by means of electronic implantation.

(e) While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to Code of Virginia, § 3.2-6503. When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash and muzzled in such manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but to prevent it from biting a person or another animal.

(f) If the owner of an animal found by a court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(g) After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon learning of such finding, notify the animal control officer if the animal:

(1) Is loose or unconfined;

(2) Bites a person or attacks another animal; or

(3) Is sold, given away, or dies.

Any owner of a dangerous dog who relocates to a new address shall, within ten days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(h) The owner shall cause the local animal control officer to be promptly notified of:

(1) The names, addresses, and telephone numbers of all owners;

(2) All of the means necessary to locate the owner and the dog at any time;

(3) Any complaints or incidents of attack by the dog upon any person or cat or dog;

(4) Any claims made or lawsuits brought as a result of any attack;

(5) Chip identification or other electronic implantation information;

(6) Proof of insurance or surety bond; and

(7) The death of the dog.

(i) The owner of any animal which has been found by a court to be a dangerous dog who willfully fails to comply with the requirements of this section shall, upon conviction, be guilty of a Class 1 misdemeanor.

(j) Any owner or custodian of a dog or other animal is guilty of a:

(1) Class 2 misdemeanor if the dog previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

(2) Class 1 misdemeanor if the dog previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

(3) Class 1 misdemeanor if any owner or custodian whose willful act or omission in the care, control, or containment of a dog or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

(k) All fees collected pursuant to this section, less the costs incurred by the animal control officer in producing and distributing the certificates and tags required by this chapter, shall be paid into a special dedicated fund in the City treasury for the purpose of paying the expense of any training course required under Code of Virginia, § 3.2-6556.

(Code 1993, § 4-61; Code 2004, § 10-171; Code 2015, § 4-241; Ord. No. 2010-110-116, § 1, 6-28-2010; Ord. No. 2013-244-2014-13, §§ 2, 3, 2-10-2014)

State law reference—Dangerous dogs, Code of Virginia, §§ 3.2-6540, 3.2-6542.

Sec. 4-242. Vicious dogs.

(a) An animal control officer who has reason to believe that a canine or canine crossbreed within the City is a vicious dog shall apply to a magistrate serving the City for the issuance of a summons requiring the owner or custodian, if known, to appear before a General District Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer shall confine the dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3.2-6562. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harborer thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Code of Virginia, Title 19.2, Ch. 15, Art. 4 (Code of Virginia, § 19.2-260 et seq.). The City shall be required to prove its case beyond a reasonable doubt.

(b) No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of dog prohibited. No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was:

(1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or

(3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

(c) Any owner or custodian of a canine or canine crossbreed or other animal whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(Code 2004, § 10-171.1; Code 2015, § 4-242; Ord. No. 2013-244-2014-13, § 1, 2-10-2014)

State law reference—Vicious dogs, Code of Virginia, § 3.2-6540.1.

Sec. 4-243. Dogs running at large prohibited; penalty.

It shall be unlawful for any dog to run at large. For purposes of this section, a dog shall be deemed to run at large while roaming, running, or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. The term "immediate control," for purposes of this section, means confinement of the dog by a fence, tether, or leash. Any person who permits such person's dog to run at large shall be deemed in violation of this section, and upon conviction thereof, shall be guilty of a Class 4 misdemeanor.

(Code 1993, § 4-62; Code 2004, § 10-172; Code 2015, § 4-243; Ord. No. 2017-173, § 1, 10-9-2017)

State law reference—Authority to prohibit dogs from running at large, Code of Virginia, § 3.2-6538.

Sec. 4-244. Care and control; penalties.

(a) No owner shall fail to exercise proper care and control of a domestic, companion, wild, or exotic animal to prevent it from becoming a public nuisance.

(b) Every female dog and cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with a male dog or cat except for breeding planned by the owner.

(c) Any person owning or having within such person's possession or control any domestic, companion, wild, or exotic animal suspected of constituting a public nuisance may be proceeded against by warrant or summoned before the General District Court of the City to provide evidence why such domestic, companion, wild, or exotic animal should not be confined, euthanized, or removed or the public nuisance otherwise abated. The animal control officer or owner or custodian of the animal suspected of constituting a public nuisance shall confine the animal until such time as the court has made a final decision in the case. Upon proof that such domestic, companion, wild, or exotic animal constitutes a public nuisance, the domestic, companion, wild, or exotic animal shall, by order of the judge of the General District Court of the City, be confined, euthanized, or removed or the nuisance shall be otherwise abated, as such judge shall order. No person shall fail to comply with such an order.

(d) Any person convicted of a violation of subsection (a) or (b) of this section shall be guilty of a Class 4 misdemeanor. Any person convicted of two or more violations of subsection (a) of this section within a 24-month period shall be guilty of a Class 1 misdemeanor for every second and subsequent offense within a 24-month period. In addition to any other penalties for a conviction of a violation of subsection (a) or (b) of this section, the owner of any dog or cat that has not been spayed or that has not been neutered and has been determined by the Director to have caused the violation may be ordered by the court to cause such dog or cat to be surgically sterilized within 60 days of said conviction. Such owner shall be required to provide proof of the sterilization to the Department within seven days after the surgery. Failure to comply with any such order shall be a Class 1 misdemeanor.

(Code 1993, § 4-63; Code 2004, § 10-173; Code 2015, § 4-244; Ord. No. 2012-92-129, § 1, 9-10-2012; Ord. No. 2018-295, § 1, 12-17-2018)

Sec. 4-245. Dogs prohibited in certain parks, recreation and play areas, and other posted areas; exceptions by special permit.

(a) Except as otherwise provided in this section, it shall be unlawful for the owner or any person in charge of any dog to allow such dog, whether leashed or unleashed, to enter or to take such dog into Maymont Park, the Azalea Gardens in Bryan Park, Byrd Park, recreation areas or athletic fields, areas equipped or designated, or both, as children's play lots, or any other area posted by the Director of Parks, Recreation and Community Facilities as an area wherein dogs are not allowed.

(b) Notwithstanding any part of subsection (a) of this section to the contrary, the owner shall be allowed to take such dog, if leashed, into Byrd Park as provided in this subsection.

(1) The owner or any person in charge of any dog shall not take such dog into the following restricted areas within Byrd Park:

a. Ball diamonds, tennis courts, playground and picnic shelters;

b. The venues known as the Carillon, the Roundhouse, Dogwood Dell and Ha' Penny Stage;

c. The Maymont Visitors Center;

d. The triangle shaped green space immediately south of Fountain Lake, sometimes referred to as the Sun Bathing Plot Area, with the exception of either side of the north service road; and

e. The Vita Exercise Course and Trail and the green space around it bounded by Blanton Avenue on the west, Trafford Road on the north, Spotswood Road on the east, and Shirley Lane and Park Drive on the south.

(2) The Director of Parks, Recreation and Community Facilities shall install appropriate signage in Byrd Park to notify the public of the restrictions on having dogs in the park and the prohibition on having dogs in restricted areas of the park by January 1, 2008. The Director of Parks, Recreation and Community Facilities shall also install appropriate waste receptacles for the collection of animal waste in Byrd Park by January 1, 2009.

(c) The Director of Parks, Recreation and Community Facilities may promulgate rules and regulations for the issuance of special permits for taking a dog into any restricted area designated in subsection (a) of this section.

The application for any such special permit must be in writing and delivered to the Director of Parks, Recreation and Community Facilities at least three working days prior to the time for which such special permit is requested.

(d) Guide dogs, hearing dogs and service dogs, as defined in Code of Virginia, § 51.5-44, shall not be subject to this section and shall be admitted without special permit, provided that the liability of the owner of any such dog shall be as set forth in Code of Virginia, § 51.5-44.

(Code 1993, § 4-64; Code 2004, § 10-174; Code 2015, § 4-245; Ord. No. 2005-129-80, § 1, 5-23-2005; Ord. No. 2008-251-241, § 1, 10-27-2008; Ord. No. 2009-218-221, § 1, 11-23-2009)

Cross reference—City-owned real estate, Ch. 8; animals in Festival Park, § 8-346.

Sec. 4-246. Restraint of dogs in parks.

It shall be unlawful for the owner or any person in charge of any dog, whether licensed or unlicensed, to allow such dog to go unleashed in any City park into which it is not unlawful for such dog to enter or be taken.

(Code 1993, § 4-65; Code 2004, § 10-175; Code 2015, § 4-246; Ord. No. 2005-129-80, § 1, 5-23-2005)

Cross reference—City-owned real estate, Ch. 8.

Sec. 4-247. Operation of kennel.

(a) No kennel shall be operated or maintained in the City for more than 50 dogs or cats.

(b) The person required to obtain a kennel license and pay the license tax therefor by Chapter 26, Article XIII, shall securely fasten the license tag provided for by such article to the kennel enclosure in full view and shall keep one of the identification plates provided therewith attached to a collar which shall be worn by each dog and cat authorized by the kennel license to be kept in the kennel. Any identification plates not so in use shall be kept by such person and promptly shown to the animal control officer or other law enforcement officer upon request.

(c) No such person shall permit a kennel dog or cat to roam, loiter, walk or run beyond the limits of the enclosure. However, a kennel dog or cat may be removed from the kennel temporarily while under the control of such person for the purpose of exercising, hunting, breeding, trial or show.

(d) No kennel shall be operated or maintained in such a manner as to defraud the City of the license tax levied by Chapter 26, Article XIII, or to in any manner violate other sections of this article. Any kennel in the City must be in the appropriate zoning district pursuant to Chapter 30.

(Code 1993, § 4-66; Code 2004, § 10-176; Code 2015, § 4-247)

Sec. 4-248. Disposition of deceased companion animal.

The owner of any dead companion animal shall forthwith cremate, bury or otherwise sanitarily dispose of the companion animal, or such owner shall call the City animal shelter and have the companion animal picked up and properly disposed of. When requested by the owner, the City animal shelter will pick up and dispose of a dead companion animal for a fee of $50.00 to defray the cost of providing such service. Upon failure, refusal or neglect to do so, after notice to the owner, a judge of the General District Court, Criminal Division, shall order the dead companion animal to be disposed of by the Director and shall require the owner to pay the City the cost for this service.

(Code 1993, §§ 4-67, 4-131; Code 2004, § 10-177; Code 2015, § 4-248; Ord. No. 2017-055, § 1, 5-15-2017; Ord. No. 2018-273, § 1, 11-13-2018)

State law reference—Disposal of dead companion animal, Code of Virginia, § 3.2-6554.

Secs. 4-249—4-274. Reserved.

DIVISION 5. IMPOUNDMENT AND DISPOSITION*

***State law reference—**Animal shelters and impoundment, Code of Virginia, §§ 3.2-6545 et seq., 3.2-6564 et seq., 3.2-6574 et seq.

Sec. 4-275. Impoundment and violation notice; fee for board and care.

(a) Unrestrained dogs of unknown ownership shall be taken by the animal control officer and confined in a

humane manner, as shall dogs of known ownership the owners of which cannot be found at the time of apprehension of the unrestrained dog. In lieu of impounding a dog, if the owner is known and can be found when such unrestrained dog is taken into custody, the officer shall release such dog to its owner and shall then and there issue and serve upon the owner a summons to appear in court for violation of the restraint law. Such owner may, in lieu of appearing in court on the return date of such summons, within five working days of the date of receipt of the summons, pay a fine of $15.00 if such summons is for a first offense or a fine of $25.00 if it is for a second or subsequent offense.

(b) If by a license tag the owner of an impounded dog or cat can be identified, the animal control officer shall, immediately following impoundment, seek to notify the owner of the fact of impoundment by the best means reasonably available to that officer.

(c) An owner reclaiming an impounded dog or cat shall pay a fee of $25.00 plus $5.00 for each day or portion of a day the dog or cat has been impounded. Also, whenever a dog or cat is impounded and the owner reclaims the dog or cat, at the time the owner reclaims the dog or cat an officer shall then and there issue and serve upon such owner a summons to appear in court for violation of the restraint or license law. Such owner may, in lieu of appearing in court on the return date of such summons, within five working days of the date of receipt of the summons, pay a fine of $15.00 if such summons is for a first offense or a fine of $25.00 if it is for a second or subsequent offense.

(d) Any animal not reclaimed by its owner within five days shall be deemed the property of the City and shall be disposed of as provided by State laws or placed with a new owner, subject to Section 4-278 and State laws. The fee for the adoption of dogs, cats, puppies and kittens shall be $100.00.

(Code 1993, § 4-71; Code 2004, § 10-201; Code 2015, § 4-275; Ord. No. 2012-109-127, § 1, 7-23-2012)

Sec. 4-276. Impoundment of unlicensed dogs and cats generally.

Any person may make complaint to the Department of a person having, keeping or maintaining any unlicensed dog or cat. It shall be the duty of the animal control officer to immediately investigate the complaint. If the complaint is verified, the dog or cat may be apprehended and impounded and shall thereafter be disposed of in the same manner as an unrestrained dog which has been impounded.

(Code 1993, § 4-72; Code 2004, § 10-202; Code 2015, § 4-276; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 4-277. Disposition of unlicensed dogs and cats found at large.

It shall be the duty of the animal control officer or any other officer to capture for proper disposition any dog or cat of unknown ownership found running at large on which a license required by Chapter 26, Article XIII, has not been paid. However, the animal control officer or other officer may deliver such dog or cat to any person in the City who will pay the required license tax on such dog or cat, with the understanding that, should the legal owner thereafter claim the dog or cat and prove ownership, the legal owner may recover such dog or cat by paying to the person to whom it was delivered by the animal control officer the amount of the license tax paid and a reasonable charge for the keeping of the dog or cat while in such person's possession. Any person, animal control officer or other officer euthanizing a dog or cat under this article shall cremate, bury or sanitarily dispose of the dog or cat; provided, however, that, prior to disposition by euthanasia or otherwise, all the applicable requirements under State law and under this chapter have been satisfied. Upon request by an owner, the City animal shelter will euthanize an animal for a fee comparably charged by the Richmond Society for the Prevention of Cruelty to Animals.

(Code 1993, § 4-73; Code 2004, § 10-203; Code 2015, § 4-277)

Sec. 4-278. Conditions for release from animal shelter; conditions for adoption.

(a) In order for a dog or cat to be released from the City animal shelter, the following conditions must be met:

(1) If the dog or cat is being released to its current owner, the owner must:

a. Have the dog or cat initially vaccinated against rabies or revaccinated as scheduled or produce a valid vaccination tag or certificate.

b. Purchase a City license or produce a valid City license tag or certificate.

c. Purchase a valid breeding permit or produce proof of sterilization.

(2) If the dog or cat is being released to a new owner for adoption, the new owner must:

a. Have the dog or cat initially vaccinated against rabies or revaccinated as scheduled, unless there is evidence making such vaccination unnecessary; and

b. Purchase a City license if the dog or cat is unlicensed.

(3) If the dog or cat is being transferred to a Humane Society, animal welfare society, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals, such receiving organization must:

a. Have the dog or cat initially vaccinated against rabies or revaccinated as scheduled, unless there is evidence making such vaccination unnecessary.

b. Sign an agreement to either have the dog or cat sterilized by a licensed veterinarian within 30 days after the transfer if the dog or cat is sexually mature, or have the dog or cat sterilized within 30 days after the dog or cat reaches six months of age if the dog or cat is not sexually mature at the time of the transfer. In extreme cases where the life or health of the dog or cat may be jeopardized or endangered by sterilization, the licensed veterinarian may request from the Director an extension of the date by which the dog or cat must be sterilized.

c. Provide the City animal shelter with a copy of the rabies vaccination certificate within seven days after the release of the dog or cat.

d. Provide the City animal shelter with written confirmation of sterilization signed by a licensed veterinarian to include the dog's or cat's shelter identification number, a description of the dog or cat, and the date of sterilization.

e. Maintain records of all the dogs or cats transferred.

If a copy of the rabies vaccination certificate is not provided to the City animal shelter by the transferring organization within seven days of the release of the dog or cat, the transferring organization will be charged a civil penalty in the amount of $50.00. If written confirmation signed by the licensed veterinarian certifying the sterilization is not provided to the City animal shelter within seven days after the expiration of the time specified in the transfer agreement, the transferring organization will be charged a civil penalty in the amount of $50.00 for failure to confirm the sterilization of the dog or cat as required. The failure to provide verification of vaccination and sterilization within specified time periods shall result in a suspension of transferring privileges until such time as the Division of Animal Control receives the required verifications in the format detailed in subsections (a)(3)c and d of this section. Two or more violations of this subsection (a)(3) may result in termination of transferring privileges. The Director shall have full authority to terminate and reinstate transferring privileges.

(b) If a copy of the vaccination certificate is not provided to the City by the owner, or new owner in the case of an adoption, within seven days after the release of the dog or cat, such owner or new owner will be charged a civil penalty in the amount of $50.00 for failure to have the dog or cat vaccinated against rabies. If written confirmation signed by the licensed veterinarian certifying the sterilization of the dog or cat is not provided to the City within seven days after the expiration of the time specified in the sterilization agreement, the new owner will be charged a civil penalty in the amount of $50.00 for failure to confirm the sterilization of the dog or cat as required. The written confirmation shall:

(1) Briefly describe the dog or cat;

(2) Include the new owner's name and address;

(3) Certify that the sterilization was performed; and

(4) Specify the date of the procedure.

(c) If an adopted dog or cat is lost, stolen or dies before being sterilized and prior to the date by which the dog or cat is required to be sterilized, the new owner shall notify the City of the dog's or cat's disappearance or death within seven days of the dog's or cat's disappearance or death. Failure to notify the City of the disappearance or

death of the dog or cat prior to its required sterilization will result in a civil penalty of $25.00 to the new owner.

(d) Payment of a civil penalty for failure to have a dog or cat vaccinated against rabies or sterilized does not relieve the owner, or new owner in the case of an adoption, of the responsibility to have the dog or cat vaccinated against rabies or sterilized. The conditions and stipulations required in this section for the release of dogs or cats are in addition to the impound-related charges for dogs or cats at the City animal shelter. An adoption fee is also charged if the dog or cat is being adopted from the City animal shelter.

(Code 1993, § 4-74; Code 2004, § 10-204; Code 2015, § 4-278)

State law reference—Requirements for release of animals, Code of Virginia, §§ 3.2-6545, 3.2-6574 et seq.

Secs. 4-279—4-304. Reserved.

DIVISION 6. BREEDING AND TRANSFER*

***State law reference—**Transportation and sale of animals, Code of Virginia, § 3.2-6508 et seq.

Sec. 4-305. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal owner means any person harboring, keeping or providing care or sustenance to a domestic animal on property that such person owns, rents or leases. Such a person shall be subject to the requirements of this division. This definition does not apply to government agencies, animal rescue organizations which have demonstrated to the Director that they have implemented an ongoing spay/neuter program as well as an adoption program, or humane societies or societies for the prevention of cruelty to animals if such societies are incorporated under State law.

(Code 1993, § 4-75; Code 2004, § 10-226; Code 2015, § 4-305)

Cross reference—Definitions generally, § 1-2.

Sec. 4-306. Unsupervised cats.

(a) No person who owns a cat over the age of four months shall cause, permit, or allow such animal to be in a public place unsupervised, unless the cat is sterilized. The term "public place" shall include, but not be limited to, streets, highways, alleys, sidewalks, parks, carnivals, shopping malls, flea markets, and areas in front of commercial establishments. This requirement applies to all cats that are not sterilized, whether or not the cat's owner has obtained a breeding permit pursuant to Section 4-307.

(b) The failure to comply with any of the requirements mentioned in subsection (a) of this section is an infraction punishable by a civil penalty of $50.00 for the first occurrence, $75.00 for the second occurrence and $100.00 for each subsequent occurrence.

(Code 1993, § 4-76; Code 2004, § 10-227; Code 2015, § 4-306)

Sec. 4-307. Breeding permit.

(a) As used in this section, the term "breeding permit" means a written authorization, issued annually by the Department, giving its lawful holder permission to breed a dog or a cat.

(b) No person shall own, harbor or keep an unspayed or unneutered dog or cat in the City that is over the age of four months without obtaining a breeding permit as provided in this section.

(c) Each breeding permit shall be valid for one year from the date of issuance and may be renewed annually before its expiration date. Each applicant for such a permit shall pay an annual fee of $100.00 per dog or cat. A separate permit must be obtained for each owned dog or cat which is allowed to breed.

(d) The Division of Animal Control shall administer an animal breeding permit program to allow the breeding of dogs and cats that are not sterilized consistent with criteria and according to procedures established by the Director. Under no circumstances shall such a permit be issued to a person who has been convicted of animal cruelty or neglect. In addition to the criteria and procedures established by the Director pursuant to this subsection, all breeding permits shall contain the following terms and conditions:

(1) The owner of a female dog or cat that is not sterilized shall not allow the whelping of more than one litter per animal in any household within the permit year. Notwithstanding this requirement, the Director is hereby authorized, upon application of a permittee, to allow on a one-time basis the whelping of up to two dog or cat litters per breeding animal within any domestic household within a permit year, if the permittee establishes, according to regulations promulgated by the Director, that such breeding is required to protect the health of the animal or to avert a substantial economic loss to the permittee. If a permittee is forced to euthanize a litter of dogs or cats for medical reasons, the Director may authorize the whelping of one additional litter of dogs or cats within the same permit year by the permittee without penalty;

(2) No offspring may be sold, adopted, bartered, or otherwise transferred, whether for compensation or otherwise, until it has reached the age of at least seven weeks;

(3) No offspring may be sold, adopted, bartered or otherwise transferred until immunized against common diseases. The sale, adoption, bartering or transfer of a dog or cat shall include a statement signed by the seller or adopter attesting to the signatory's knowledge of the animal's health and the animal's immunization history;

(4) Any holder of a breeding permit who advertises to the public the availability of any dog or cat for sale, adoption, or transfer, whether for compensation or otherwise, must prominently display the permit number in any such advertisement. Further, the breeding permit holder must provide the permit number to any person who purchases, adopts or receives any animal from the permit holder and include the permit number on any receipt of sale or transfer document;

(5) Commercial establishments that sell dogs or cats bred within the City shall prominently display the breeding permit number of the breeder whose dogs and cats are sold in such establishments and any other pertinent information required by the Director. Commercial establishments that sell dogs and cats which were not bred within the City shall prominently display the name and address of the breeder of such dogs and cats and any other pertinent information required by the Director;

(6) Any breeding permit holder selling or otherwise transferring a dog or a cat, whether for compensation or otherwise, shall submit to the Department the name, address and telephone number of the animal's new owner within five days from the sale or other transfer, on a City-approved form; and

(7) Any breeding permit holder or commercial establishment which sells or otherwise transfers a dog or cat, whether for compensation or otherwise, shall provide to the new animal owner the City application for a license and breeder's permit as well as written information regarding the license and permit requirements of the City applicable to such animal.

(e) The following animals are exempt from the breeding permit requirements:

(1) Dogs documented as having been appropriately trained and actively used by law enforcement agencies for law enforcement and rescue activities;

(2) Dogs documented as guide dogs, signal dogs, or service dogs pursuant to State law;

(3) Dogs and cats certified by a licensed veterinarian as not being suitable subjects for spaying and neutering due to medical reasons;

(4) Dogs and cats under the care of governmental animal control agencies; animal rescue organizations which have demonstrated to the Director that they have implemented an ongoing spay/neuter plan, as well as an adoption plan; or Humane Societies or societies for the prevention of cruelty to animals, if such societies are incorporated under State law; and

(5) Dogs documented as enrolled in a guide dog, signal dog or service dog breeding program administered by a person licensed under State law.

(Code 1993, § 4-77; Code 2004, § 10-228; Code 2015, § 4-307; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 4-308. Penalties for breeding violations.

(a) Any cat or dog owner found by the Department to be in violation of the breeding permit requirements of Section 4-307 may correct the violation by providing conclusive proof to the Department that the dog or cat has been sterilized; by authorizing the Department to have the animal sterilized, at the owner's expense, prior to the animal's release; or by obtaining a breeding permit as required by Section 4-307 prior to the animal's release. If the owner fails to correct the violation as provided in this subsection, the Department shall impose a civil penalty of $150.00 on such dog or cat owner. Notice of this penalty shall be served by the Department on the dog or cat owner in person or via certified letter. This penalty shall not be waived by the Department upon the transfer or abandonment of the animal by the noncompliant owner.

(b) The Department may revoke any permit issued pursuant to this section upon a finding that the permit holder has violated the terms and conditions of this section. Such a finding shall be made only after giving the owner of the animal in question notice of the violations and an opportunity to explain such violations to the Department.

(Code 1993, § 4-78; Code 2004, § 10-229; Code 2015, § 4-308; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 4-309. Sale, adoption and other transfers.

(a) Any person who offers or provides, whether for compensation or otherwise, any dog or cat for sale or other type of transfer shall disclose to the transferee information regarding the license and permit requirements of the City applicable to the transferred animal.

(b) No person shall present any dog or cat for sale, adoption, barter, or exchange, whether for compensation or otherwise, in any public place without first obtaining a breeding permit pursuant to Section 4-307. This prohibition shall not apply to the following:

(1) Government agencies, nonprofit animal rescue organizations exempt from taxation under Internal Revenue Code section 501(c)(3), or Humane Societies or societies for the prevention of cruelty to animals if such societies are incorporated under State law;

(2) Permitted dog or cat shows;

(3) Permitted pet stores which sell or otherwise transfer dogs or cats, whether for compensation or otherwise, within the store; or

(4) Any dog or cat that has been sterilized.

(c) No person shall give away any dog or cat as a prize or as an inducement to enter into any contest, lottery, drawing, game, or competition.

(d) No person shall give away any dog or cat as an inducement to enter a place of business or to enter into a business arrangement.

(e) No person shall sell, barter, exchange or offer for adoption, whether for compensation or otherwise, any dog or cat to any minor under the age of 18 years, without the written permission of one of the minor's parents or legal guardians.

(f) Commercial establishments that sell dogs and cats that were not bred within the City shall prominently display the name and address of the breeders of such dogs and cats and any other pertinent information required by the Director.

(g) The failure to display the breeding permit number or include it in any advertisement for sale, adoption or other transfer of dogs and cats is an infraction punishable by a civil penalty of $50.00 for the first occurrence, $75.00 for the second occurrence and $100.00 for each subsequent occurrence.

(h) The possession of a valid permit under this division does not entitle the permit holder to engage in an activity that is otherwise prohibited by law.

(Code 1993, § 4-79; Code 2004, § 10-230; Code 2015, § 4-309)

Secs. 4-310—4-336. Reserved.

ARTICLE IV. RABIES CONTROL*

***Cross reference**—Health, Ch. 15.

State law reference—Rabies control, Code of Virginia, § 3.2-6521 et seq.

DIVISION 1. GENERALLY

Sec. 4-337. Penalties.

Except as otherwise provided, the violation of any section of this article shall constitute a Class 4 misdemeanor and shall be punished accordingly.

(Code 1993, § 4-121; Code 2004, § 10-261; Code 2015, § 4-337)

Sec. 4-338. Vaccination clinic; charge for vaccination.

(a) The Department is authorized to hold clinics for vaccination of animals against rabies at suitable locations within the City should the Director determine that such clinics are necessary. However, the Department shall ensure that a clinic for vaccination of animals against rabies is held at least once every two years beginning on July 1, 2013. Any clinic required or authorized by this section shall also require the approval of the Council and the appropriate local health department. A charge shall be made for the vaccination of each animal, which shall not exceed the actual cost of performing the vaccination; however, if the Director determines such charge will result in a demonstrably undue hardship to the owner of the animal, the charge may be waived.

(b) The owner is responsible for having a dog or cat sterilized and vaccinated for rabies. However, if the owner fails to have a dog or cat sterilized and vaccinated for rabies, a fee for the transportation provided by the City for the purpose of having a dog or cat sterilized or vaccinated for rabies, or both, by a licensed veterinarian shall be charged in the amount of $10.00 to the owner of the dog or cat to help defray the cost of providing the service.

(Code 1993, § 4-81; Code 2004, § 10-262; Code 2015, § 4-338; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2013-244-2014-13, § 2, 2-10-2014)

State law reference—Rabies clinics, Code of Virginia, § 3.2-6521(B).

Secs. 4-339—4-364. Reserved.

DIVISION 2. DOGS AND CATS

Sec. 4-365. Vaccination required.

It shall be unlawful for any person to own any dog or cat four months of age or older within the City unless such dog or cat has been vaccinated with a species-appropriate rabies vaccine approved by the State Department of Health, administered by a currently licensed veterinarian, and has received any required revaccination against rabies as specified in the certificate.

(Code 1993, § 4-91; Code 2004, § 10-286; Code 2015, § 4-365)

State law reference—Similar provisions, Code of Virginia, § 3.2-6521(A).

Sec. 4-366. Certificate of vaccination.

(a) Upon vaccination or revaccination of a dog or cat as required by this division, a certificate of vaccination signed by the licensed veterinarian performing the vaccination shall be issued to the owner of such dog or cat for the purpose of obtaining a license. The veterinarian shall issue to the owner of such dog or cat a rabies tag supplied by the City. The tag shall be of a shape, color and size prescribed by the Director.

(b) The certificate issued pursuant to subsection (a) of this section shall be approved by the Director. The certificate shall include the following information:

(1) The date of vaccination;

(2) The date for required revaccination;

(3) The dog's or cat's age, sex, breed, color, name;

(4) The rabies tag number;

(5) The name and address of the dog's or cat's owner;

(6) The veterinarian's name, which shall be printed or stamped on the form; and

(7) The signature of the veterinarian.

(c) The certificate issued pursuant to subsection (a) of this section shall be preserved by the owner of the dog or cat and exhibited for inspection to the Director, any animal control officer, or any other law enforcement officer upon request.

(d) Within 30 days from the date on which a dog or cat is first owned or moved into the City, such dog or cat shall be vaccinated in accordance with this division, provided that the dog or cat is four months of age or older.

(Code 1993, § 4-92; Code 2004, § 10-287; Code 2015, § 4-366)

State law reference—Similar provisions, Code of Virginia, § 3.2-6521(A).

Sec. 4-367. Rabies vaccination tag.

The current rabies vaccination tag shall be securely fastened to a collar by the owner of any dog or cat, and the collar, with the tag attached, shall be worn by the dog or cat at all times the dog or cat is out-of-doors. Under the following circumstances, the owner of the dog or cat may remove the collar and tag required by this section:

(1) The dog is engaged in lawful hunting;

(2) The dog or cat is competing in a dog or cat show;

(3) The dog or cat has a skin condition which would be exacerbated by the wearing of a collar;

(4) The dog or cat is confined; or

(5) The dog is under the immediate control of its owner in compliance with the restraint law.

(Code 1993, § 4-93; Code 2004, § 10-288; Code 2015, § 4-367)

Sec. 4-368. Evidence required before issuance of license.

No dog or cat license shall be issued by the Director of Finance unless there is presented, at the time application is made for such license, a current and valid certificate of rabies vaccination for such dog or cat.

(Code 1993, § 4-94; Code 2004, § 10-289; Code 2015, § 4-368)

Cross reference—Dog and cat license taxes, § 26-817 et seq.

Sec. 4-369. Temporary presence in City for showing and breeding.

Section 4-365 shall not apply to any dog or cat temporarily brought into the City for a period not to exceed 30 days for show or breeding purposes, if such dog or cat remains confined at all times.

(Code 1993, § 4-95; Code 2004, § 10-290; Code 2015, § 4-369)

Sec. 4-370. Reporting rabid dogs or cats.

Every person having knowledge of the existence of a dog or cat apparently afflicted with rabies shall report immediately to the Department the existence of such animal, the place where seen, the owner's name if known, and the symptoms suggesting rabies.

(Code 1993, § 4-96; Code 2004, § 10-291; Code 2015, § 4-370; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 4-371. Confinement or euthanization of rabies suspect.

(a) Dogs or cats found within the City which exhibit the common symptoms of rabies or otherwise are reasonably suspected of having rabies shall be taken into custody immediately by an animal control officer or any police officer and shall be confined in a place approved by the Director, under competent observation, for such time as may be necessary to determine whether such dog or cat is afflicted with rabies.

(b) The Director shall cause to be euthanized by one of the methods approved by the State Veterinarian any dog or cat which, in the opinion of a currently licensed veterinarian, has rabies or any dog or cat for which confinement is impossible or impracticable. In such event, the Director shall have the head of such dog or cat examined for the purpose of ascertaining if the dog or cat was rabid.

(c) If there is no evidence of vaccination and it has been determined that the dog or cat does not have rabies, the dog or cat shall be vaccinated by a currently licensed veterinarian prior to release to the owner.

(d) All expenses incurred in complying with this section shall be borne by the owner of the dog or cat.

(Code 1993, § 4-97; Code 2004, § 10-292; Code 2015, § 4-371)

State law reference—Rabid animals, Code of Virginia, § 3.2-6522.

Sec. 4-372. Report of bites.

(a) Every dog or cat bite of a person which occurs in the City shall be reported within 24 hours of occurrence to the Department. If occurring at night, on weekends or on holidays, the report may be made to the Department of Police.

(b) Such report shall include the following:

(1) The name and address of the person bitten;

(2) The name and address of the owner of the biting dog or cat, if known;

(3) A reasonable description of the dog or cat;

(4) The date and time of day of the injury and the address where it occurred;

(5) The part of the body on which the bite was inflicted; and

(6) If known, whether the biting dog or cat has been vaccinated against rabies.

(c) The responsibility for reporting is mutually charged to attending physicians, veterinarians, the person bitten, to such person's parent or guardian if a minor, and to the owner of the dog or cat.

(Code 1993, § 4-98; Code 2004, § 10-293; Code 2015, § 4-372; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2018-274, § 1, 11-13-2018)

Sec. 4-373. Confinement of biting dogs or cats.

(a) Upon receipt of information by the Department of Police or the Office of Animal Care and Control that a dog or cat has bitten a person, it shall be the duty of the Director, upon ascertaining the identity of such dog or cat, to direct it to be confined under competent observation for a period of ten days from the date the bite occurred, such confinement to be in a place approved by the Director. The person who owns such dog or cat shall bear the cost of such confinement.

(b) The Director shall order the dog or cat released if it is safe to do so at the end of the ten-day period. If there is no evidence of vaccination, the dog or cat shall be vaccinated by a currently licensed veterinarian, at the expense of the owner, prior to release.

(Code 1993, § 4-99; Code 2004, § 10-294; Code 2015, § 4-373; Ord. No. 2008-28-48, § 2, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 4-374. Confinement or euthanization of dog or cat bitten by rabid animal.

Any dog or cat bitten by an animal believed to be afflicted with rabies, where the owner has proof of a valid rabies vaccination, shall be revaccinated immediately by a currently licensed veterinarian at the expense of the owner and shall be confined, at a place approved by the Director, for a period of 90 days. If the owner of such dog or cat does not have proof of a valid rabies vaccination, the dog or cat shall be confined in a pound, kennel or enclosure approved by the Director for a period not to exceed six months. In the latter event, the dog or cat shall receive a rabies vaccination at the expense of the owner at least one month prior to its release. If confinement is not feasible, the dog or cat shall be euthanized by one of the methods approved by the State Veterinarian.

(Code 1993, § 4-100; Code 2004, § 10-295; Code 2015, § 4-374)

State law reference—Similar provisions, Code of Virginia, § 3.5-6522.

Sec. 4-375. Confinement of unvaccinated dogs or cats.

(a) Any dog or cat found in the City not wearing a valid rabies tag or any dog or cat which, after reasonable investigation, cannot be determined to be currently vaccinated may be impounded at the City animal shelter.

(b) A dog or cat confined under subsection (a) of this section which is not suspected of being rabid may be released to the owner upon payment of a fee of $25.00 plus $5.00 for each day or portion of a day the dog or cat has been confined, in addition to the rabies vaccination fee and the license fee if the dog or cat is not licensed.

(Code 1993, § 4-101; Code 2004, § 10-296; Code 2015, § 4-375)

Sec. 4-376. Euthanization of seriously injured or sick dogs or cats.

Nothing in this division shall prohibit the euthanization by one of the methods approved by the State Veterinarian of a seriously injured or sick dog or cat.

(Code 1993, § 4-102; Code 2004, § 10-297; Code 2015, § 4-376)

Sec. 4-377. Concealing or withholding to prevent euthanization or confinement.

It shall be unlawful for any person to conceal or withhold surrender of any dog or cat in order to keep it from being confined in accordance with this division or from being euthanized when ordered by the Director.

(Code 1993, § 4-103; Code 2004, § 10-298; Code 2015, § 4-377)

Secs. 4-378—4-397. Reserved.

DIVISION 3. WILD ANIMALS; NONDOMESTIC ANIMALS

Sec. 4-398. Euthanization of certain animals suspected of being rabid.

A wild, nondomestic or feral domestic animal that bites or otherwise injures a human being and which is suspected of being rabid by the Director or by an animal control officer shall be euthanized by one of the methods approved by the State Veterinarian and its head sent to the State Laboratory for examination and evaluation.

(Code 1993, § 4-111; Code 2004, § 10-321; Code 2015, § 4-398)

Sec. 4-399. Transportation, harboring, sale or gift of foxes, skunks and raccoons.

The transportation or importation of foxes, skunks and raccoons, other than for valid exhibit purposes, from other jurisdictions into the City and the sale or transfer of foxes, skunks and raccoons within the City is prohibited. No person shall confine or keep any fox, skunk or raccoon for exhibit purposes, except as authorized by State law or regulations, and any other confining or keeping of such an animal is unlawful.

(Code 1993, § 4-112; Code 2004, § 10-322; Code 2015, § 4-399)

Sec. 4-400. Exhibit animals.

The person in charge of wild, nondomestic or feral domestic animals at a fair, show, display, or exhibit within the City shall cause adequate barriers to be installed and maintained to prevent the public from coming into direct contact with the animals or with their excrement.

(Code 1993, § 4-113; Code 2004, § 10-323; Code 2015, § 4-400)

Chapter 5

BUILDINGS AND BUILDING REGULATIONS*

***Cross reference**—Department of Planning and Development Review, § 2-455 et seq.; fire prevention and protection, Ch. 13; fire prevention code, § 13-138 et seq.; floodplain management, erosion and sediment control, and drainage, Ch. 14; paint and other substances containing lead, § 15-97 et seq.; housing, Ch. 16; collection of hazardous wastes or building or demolition materials, § 23-47; permission required to move buildings through streets, § 24-33; house numbering, § 24-35; encroachments and buildings, § 24-109 et seq.; building operations and activities on streets, sidewalks and public ways, § 24-148 et seq.; subdivisions of land, Ch. 25; utilities, Ch. 28; zoning, Ch. 30.

State law reference—Building standards, Code of Virginia, § 36-97 et seq.

ARTICLE I. IN GENERAL

Sec. 5-1. Adoption of Uniform Statewide Building Code.

The Virginia Uniform Statewide Building Code, as now or hereafter promulgated by the State Board of Housing and Community Development, along with its associated referenced standards and all future editions and amendments, are hereby adopted and incorporated into this Code by reference and made applicable within the City. Annual testing of all backflow prevention devices in accordance with Part III, Article 2, Section 131, Item 12, subsection 505.5.2 of the Uniform Statewide Building Code, amending the International Property Maintenance Code (IPMC), will be as required in the IPMC and in accordance with the written policy of the Commissioner of Buildings.

(Code 1993, § 5-1; Code 2004, § 14-1; Code 2015, § 5-1; Ord. No. 2011-45-56, § 1, 3-28-2011)

Cross reference—Modifications to requirements of building code, § 14-121.

State law reference—Statewide building code, Code of Virginia, § 36-97 et seq.

Sec. 5-2. Applicability.

The construction, reconstruction, alteration, conversion, repair, maintenance or use of structures and buildings within the City, and installation of equipment therein, shall be governed by the Uniform Statewide Building Code as promulgated by the State Board of Housing and Community Development, together with the local fee schedule.

(Code 1993, § 5-2; Code 2004, § 14-2; Code 2015, § 5-2)

Sec. 5-3. Code violations prohibited; penalty.

It shall be unlawful for any person, partnership, firm or corporation to occupy, construct, alter, extend, repair, remove, demolish, maintain or use any building or equipment regulated by the Uniform Statewide Building Code, or cause the same to be done, in conflict with or in violation of any of the provisions of the Uniform Statewide Building Code. Violations of the Uniform Statewide Building Code shall be punishable as outlined in Code of Virginia, § 36-106.

(Code 1993, § 5-3; Code 2004, § 14-3; Code 2015, § 5-3)

State law reference—Penalty, Code of Virginia, § 36-106.

Sec. 5-4. Commissioner of Buildings.

Responsibility for enforcement of the technical standards adopted as part of the Uniform Statewide Building Code is assigned to the Department of Planning and Development Review, Bureau of Permits and Inspections. The Commissioner of Buildings shall be the "Building Official" and the "Building Maintenance Official" as defined in the Uniform Statewide Building Code and shall administer and enforce the provisions of the Uniform Statewide Building Code within the City. The Bureau of Permits and Inspections shall be deemed to be the "Building Department" within the purview of Code of Virginia, § 36-105. References in this chapter to the Building Official and the Building Maintenance Official shall be deemed to include the Commissioner of Buildings' duly authorized representatives.

(Code 1993, § 5-4; Code 2004, § 14-4; Code 2015, § 5-4; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Cross reference—Officers and employees, § 2-57 et seq.

State law reference—Enforcement of building code, Code of Virginia, § 36-105.

Sec. 5-5. Fee schedules.

For the purposes of this chapter, fees for plan examination, permits and inspections shall be as established by the Council. Fee schedules shall be published and available to the public through the Office of the Commissioner of Buildings and shall be as set forth below:

Building permits—Residential	
Value of work (higher of contractor's stated final value including material, labor, subcontracts, owner furnished materials, overhead and profit or estimated value from R S Means manuals)	
From $0.00 to $2,000.00	$63.00
Over $2,000.00	$63.00*
*Plus $6.07 per thousand or fraction thereof for single-family detached residential construction	
Re-stamping of residential plans will require an additional fee of $32.00 per set of plans	
Building permits—Commercial	
Value of work (higher of contractor's stated final value including material, labor, subcontracts, owner furnished materials, overhead and profit or estimated value from R S Means manuals)	
From $0.00 to $2,000.00	$131.00
Over $2,000.00	$131.00*
*Plus $8.50 per thousand or fraction thereof for commercial construction	
Re-stamping of commercial plans will require an additional fee of $55.00 per set of plans	
Administrative charge for extending permits	$25.00
Additional fee levy	
An additional two percent levy of fees shall be assessed for all permits used under the fee structure cited above. The fee shall be remitted to the State Department of Housing and Community Development to support training programs conducted at the Virginia Building Code Academy	
The minimum administrative fee for permits which have been either withdrawn or rejected shall be five percent of the initial permit fee but in no case less than $25.00	
The minimum plans review fee for permits which have been either withdrawn (where the subject review has been undertaken) or rejected shall be ten percent of the initial permit fee but in no case less than $25.00	
The minimum revised plan fee once a permit has been issued shall be ten percent of the initial permit fee, but in no case less than $30.00	
Any excess fee greater than $2.00 shall be returned to the permit holder upon written request	
Demolition	
Residential	$184.00
Commercial	$368.00*
*For commercial structures up to 10,000 square feet of floor area; add an additional $0.01	

per square foot floor area above 10,000 square feet, not to exceed a maximum fee of $1,000.00	
Additional fee levy	
An additional two percent levy of fees shall be assessed for all permits used under the fee structure cited above. The fee shall be remitted to the State Department of Housing and Community Development to support training programs conducted at the Virginia Building Code Academy	
Inspection fees	
Reinspection fee for failure to correct violations previously cited (any trip to a job site is considered an inspection)	
Residential	$32.00
Commercial	$63.00
Failure to appear for an on-site inspection	
Residential	$32.00
Commercial	$63.00
Fee for after-hours inspection (weekdays 5:00 p.m. to 8:00 a.m.; weekends; holidays) per hour	$95.00
Special inspection (request for an on-site inspection not required at the time of the request) during normal working hours	
Residential	$32.00
Commercial	$63.00
Egress lighting test	
Lighting test, per hour after normal working hours	$95.00
Retest due failure, per hour anytime	$184.00
Electrical certification for change in use	
Inspection, per hour for inspection and write up of report	$60.00
Fee for after-hours inspection (weekdays 5:00 p.m. to 8:00 a.m.; weekends; holidays) per hour	$90.00
Elevator test (includes coordinated routine inspections)	
Cable elevators (annual routine test fee)	
1—4 floors/openings	$150.00
5—10 floors/openings	$175.00
> 10 floors/openings	$200.00
Cable hydraulic (annual routine test fee)	$150.00
Hydraulic (annual routine test fee)	$150.00
Escalator (annual routine test fee)	$150.00
Miscellaneous for units not listed above (annual routine test fee)	$100.00
New work (includes reinspection after lock-out) (see New work fee schedule)	
Reinspections (per visit)	$50.00
Elevator annual routine inspection (without test)	$125.00

Elevator certificate processing fee	$40.00
Appeals to the building code, electrical, mechanical or plumbing board of appeals (as provided for in Code of Virginia, § 36-105)	
Appeal fee	$184.00*
Building maintenance code	
Certificate of occupancy, including temporary and partial	$263.00
Reprinting of certificate of occupancy	$32.00
Code modification request	
Code modification fee	$125.00*
*Per code section modified, maximum fee $375.00	
Small business permits	
Permit fee	$300.00
Work without a permit investigation	
Investigation of "stop work" order, per permit	$200.00

(Code 1993, § 5-5; Code 2004, § 14-5; Code 2015, § 5-5; Ord. No. 2006-173-172, § 2, 6-26-2006; Ord. No. 2007-291-274, § 1, 11-26-2007; Ord. No. 2008-52-114, § 1, 5-27-2008; Ord. No. 2008-289-275, § 1, 11-24-2008; Ord. No. 2011-80-65, § 1, 4-25-2011)

State law reference—Authority to levy fees, Code of Virginia, § 36-105.

Sec. 5-6. Fee adjustments.

Every person to whom a building permit is issued, before final inspection of the work, shall submit a cost affidavit to the Commissioner of Buildings. The value of the work shall be considered the higher of the contractor's stated final value or R S Means' estimated value. The value of work shall include all material, labor, subcontracts, owner furnished material, overhead and profit. Upon receipt of the cost affidavit from the permit holder, the Commissioner of Buildings shall adjust such fee and shall refund any excess fee to the permit holder or collect any additional fee as is necessary. If the stated final value exceeds that of R S Means, the stated final value shall be used. If the stated final value is less than R S Means, the R S Means value shall be used. The Commissioner of Buildings, or the designee thereof, may, at the Commissioner of Buildings' discretion, perform an audit on any project to which a building permit fee shall apply.

(Code 1993, § 5-6; Code 2004, § 14-6; Code 2015, § 5-6; Ord. No. 2006-173-172, § 1, 6-26-2006; Ord. No. 2011-45-56, § 1, 3-28-2011)

Sec. 5-7. Fee refunds in certain cases.

If a building permit is revoked or a building project is abandoned or discontinued, the Commissioner of Buildings shall provide fee refunds for the portion of the work which was not completed less plan review and administrative fees.

(Code 1993, § 5-7; Code 2004, § 14-7; Code 2015, § 5-7)

Sec. 5-8. Permit validity.

A building permit shall be valid when duly issued by the Bureau of Permits and Inspections for an installation at the site named thereon for the work described on the application.

(Code 1993, § 5-8; Code 2004, § 14-8; Code 2015, § 5-8)

Sec. 5-9. Commencing work without approved permit.

Any person who shall commence any work subject to this chapter without first obtaining a proper permit when required shall, when subsequently obtaining such permit, pay the fee for the entire amount of work covered by the

permit. Payment of such fee shall not preclude prosecution for a violation of the Uniform Statewide Building Code for commencing work without a permit. Any person issued a stop work order shall pay an administrative fee set by the City Council to cover the costs of issuing the stop work order and any legal actions occurring from the stop work order.

(Code 1993, § 5-9; Code 2004, § 14-9; Code 2015, § 5-9)

Sec. 5-10. Periodic inspection of existing structures.

The Commissioner of Buildings shall have the authority to periodically inspect all buildings and structures, whether permanent or temporary, as permitted by State law and the Uniform Statewide Building Code.

(Code 1993, § 5-10; Code 2004, § 14-10; Code 2015, § 5-10)

Sec. 5-11. Disregard of notice of unsafe or hazardous buildings; abatement of conditions.

If the owner, agent of the owner or person in control of a building which is found by the Commissioner of Buildings to be unsafe or a hazard under the Uniform Statewide Building Code fails or refuses to comply in a timely manner with any notice mailed or posted as provided by law or if the Commissioner of Buildings deems it necessary, without providing notice, to take such emergency measures as are set forth in the Uniform Statewide Building Code, including the demolition of a building, the Commissioner of Buildings shall cause such hazardous or unsafe condition to be abated. Costs incurred in abatement of such condition shall be paid from the City treasury on certification of the Commissioner of Buildings, and a lien in the amount of such costs, including a charge for administrative costs in the amount of $100.00, shall be placed against the property and shall remain in force until paid. All unpaid liens shall accrue interest at the rate specified for other nuisance abatement liens.

(Code 1993, § 5-11; Code 2004, § 14-11; Code 2015, § 5-11)

Sec. 5-12. Barbed, razor and electric wire fences.

(a) *Barbed and razor wire fences.* No barbed or razor wire shall be used for the purpose of wholly or partially enclosing any lot or premises within the City. However, barbed ends of fences, barbed wire and razor wire may be used on top of any wall or fence wholly or partially enclosing any lot or premises zoned for commercial or industrial use, and barbed wire may be used on top of any wall or fence wholly or partially enclosing any public school, park, recreational or playground site in any residential, commercial or manufacturing district, provided that:

(1) Such wall or fence is at least six feet in height.

(2) The barbed wire or razor wire is installed on arms or brackets extending from the top of such wall or fence inwardly over the private property to be wholly or partially enclosed.

(3) Not more than three strands of barbed wire shall be so installed, and the first strand shall be at least six inches from the face of the wall or fence.

(b) *Electric fences.* No electric fence shall be installed, operated or maintained in the City except as provided in this subsection.

(1) Electric fences shall be constructed, maintained and operated in conformance with the specifications set forth in International Electrotechnical Commission Standard 60335-2-76.

(2) The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in Paragraph 22.108 and depicted in Figure 102 of International Electrotechnical Commission Standard No. 60335-2-76.

(3) Electric fences shall be completely surrounded on the side facing the property exterior by a non-electrified fence or wall that is not less than six feet in height and at least six inches from the electric fence.

(4) Electric fences may be installed, operated or maintained only in B-3 General Business, M-1 Light Industrial and M-2 Heavy Industrial zoning districts.

(5) Electric fences shall be clearly identified with warning signs that read "Warning - Electric Fence" or similar terms and which are posted at intervals of not less than 50 feet with at least one sign on each exterior perimeter side of the fence.

(6) No electric fence shall be installed until after certification from the Department of Planning and Development Review that the plans for the fence meet the requirements of this subsection.

(7) This subsection does not apply to professionally designed electrified devices installed near or under ground level for the purposes of keeping household pets on property.

(c) *Violations.* Violation of this section shall be punishable by a fine of up to $2,500.00.

(Code 1993, § 5-12; Code 2004, § 14-12; Code 2015, § 5-12; Ord. No. 2009-143-161, § 1, 9-14-2009; Ord. No. 2009-222-2010-10, 1-25-2010; Ord. No. 2018-078, § 1, 5-14-2018)

Sec. 5-13. Building permits within Chesapeake Bay Preservation Areas.

The Commissioner of Building shall not issue a building permit until the Chesapeake Bay Administrator has certified that the proposed construction and use of the premises conform with the applicable provisions of Chapter 14.

(Code 2004, § 14-14; Code 2015, § 5-13; Ord. No. 2004-329-319, § 1, 12-13-2004)

Cross reference—Chesapeake Bay preservation areas, § 14-179 et seq.

Sec. 5-14. Vacant building registration; penalty.

It shall be unlawful for any owner or owners of buildings or structures which have been vacant for a continuous period of 12 months or more, and which meet the definition of the term "derelict building" under Code of Virginia, § 15.2-907.1, to fail to register on an annual basis the vacant buildings or structures with the Department of Planning and Development Review. Such registration shall be on a form prescribed by the Department of Planning and Development Review. The annual fee for such registration shall be $100.00. Failure to register shall result in a $200.00 civil penalty or in a $250.00 civil penalty if the property is located in a conservation or redevelopment area or in a designated blighted area. Upon re-occupancy, the owner shall notify the Department of Planning and Development Review in writing.

(Code 2004, § 14-15; Code 2015, § 5-14; Ord. No. 2006-253-259, § 1, 10-23-2006; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2013-218-198, § 1, 10-28-2013)

State law reference—Vacant building registration, Code of Virginia, § 15.2-1127.

Sec. 5-15. Streamlined process for approval of building permits when green roofs are used.

The purpose of this section is to grant incentives and provide regulatory flexibility to encourage the use of green roofs in the construction, repair, or remodeling of residential and commercial buildings. For purposes of this section, the term "green roof" has the meaning ascribed to it by Code of Virginia, § 58.1-3852. This section applies to all building permit and associated plumbing, electrical and mechanical permit applications when green roofs are used in the construction, repair, or remodeling of residential and commercial buildings. The Commissioner of Buildings shall complete review of all building permit applications to which this section applies within ten business days following submittal thereof to the Commissioner of Buildings, provided that the application is complete upon submittal. The Commissioner of Buildings shall complete review of all plumbing, electrical and mechanical permit applications associated with building permit applications to which this section applies within five business days following submittal thereof to the Commissioner of Buildings, provided the application is complete upon submittal. The respective ten business day and five business day periods shall be extended by the time an applicant takes to respond to plan review comments or to comply with any instructions from the Commissioner of Buildings necessary to properly act upon the application. As required by Code of Virginia, § 58.1-3852, all buildings to which the expedited review process set forth in this section applies shall use green roofs.

(Code 2004, § 14-16; Code 2015, § 5-15; Ord. No. 2012-201-199, § 1, 11-26-2012)

Secs. 5-16—5-33. Reserved.

ARTICLE II. BOARD OF BUILDING CODE APPEALS*

***Cross reference—**Boards, commissions, committees and other agencies, § 2-767 et seq.

State law reference—Board of Appeals, Code of Virginia, § 36-105.

Sec. 5-34. Appointment; divisions.

(a) The Board of Building Code Appeals shall be appointed and shall function in conformity with the Virginia Uniform Statewide Building Code and the administrative sections of this chapter and the administrative structure of the City and shall consist of three divisions organized as follows:

(1) Board of Building Code Appeals, General Division.

(2) Board of Building Code Appeals, Electrical Division.

(3) Board of Building Code Appeals, Plumbing and Mechanical Division.

(b) The divisions of the Board shall also serve as the agent for qualification of candidates for certification as tradesmen in their respective fields of expertise.

(Code 1993, § 5-20; Code 2004, § 14-46; Code 2015, § 5-34; Ord. No. 2014-163-153, § 1(14-46), 9-8-2014)

Sec. 5-35. Membership.

(a) Each division of the Board shall consist of members to be appointed by the City Council on the basis of their technical ability to render fair and competent decisions regarding application of the Virginia Uniform Statewide Building Code, who shall, to the extent possible, represent different occupational or professional fields. Employees or officials of the City shall not serve as Board members. The members of each of the divisions of the Board shall be comprised of individuals technically qualified in the construction discipline for which appeals will be heard.

(b) Three alternate members shall be appointed to serve in the absence of any regular member of any division of the Board. Each member appointed by the City Council shall be a resident of the City or shall be an officer or employee of a firm which has a place of business within the City.

(c) When feasible, the General Division shall consist of the following:

(1) One licensed general contractor engaged primarily in the building of commercial buildings and structures;

(2) One licensed architect or one licensed engineer, who is currently engaged in the active design of buildings and structures; and

(3) Three citizens with knowledge of the building construction trade.

(d) When feasible, the Electrical Division shall consist of the following:

(1) Two representatives of electrical contractors;

(2) One licensed professional engineer in private practice actively engaged in the design of electrical systems for buildings;

(3) One representative of a public electric power utility; and

(4) One citizen with knowledge of electrical systems.

(e) When feasible, the Plumbing and Mechanical Division shall consist of the following:

(1) One certified master plumber;

(2) One representative of a mechanical contractor;

(3) One licensed professional engineer in private practice engaged in the design of plumbing systems for buildings;

(4) One licensed professional engineer actively engaged in the design of mechanical systems for buildings; and

(5) One citizen with knowledge of plumbing systems or mechanical systems or both.

(Code 1993, § 5-21; Code 2004, § 14-47; Code 2015, § 5-35; Ord. No. 2014-163-153, § 1(14-47), 9-8-2014)

Charter reference—Council appointments to boards, § 4.14.

Sec. 5-36. Meetings; officers; minutes and records.

(a) The meetings of the various divisions of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Each division of the Board shall select from its members a Chairperson and a Vice-Chairperson. The Chairperson shall preside at the meetings of the Board; in the absence of the Chairperson the Vice-Chairperson shall preside.

(b) Three members of any division shall constitute a quorum thereof. Each division shall select a Secretary, who shall keep minutes of the Board's proceedings showing the vote of each member; if a member is absent or abstains from voting, such fact shall be recorded. The Board's action on all appeals shall be by resolution, and certified copies shall be furnished to the appellant and to the Building Official or Code Official whose decision is the subject of the appeal. All appeal hearings shall be open to the public and shall be a matter of public record.

(Code 1993, § 5-22; Code 2004, § 14-48; Code 2015, § 5-36; Ord. No. 2014-163-153, § 1(14-48), 9-8-2014)

Sec. 5-37. Terms of office.

Appointments to the Board shall be for terms of three years. Vacancies shall be filled by the City Council for the unexpired portion of the term of the former member of the Board. Each new member shall be appointed to serve for three years or until a successor has been appointed. Members may be reappointed to serve an unlimited number of successive terms. Terms for alternate members shall be as established by the City Council at the time of their appointment.

(Code 1993, § 5-23; Code 2004, § 14-49; Code 2015, § 5-37; Ord. No. 2014-163-153, § 1(14-49), 9-8-2014)

Secs. 5-38—5-62. Reserved.

ARTICLE III. CONTRACTORS*

***State law reference—**Contractors, Code of Virginia, § 54.1-1100 et seq.

Cross reference—Businesses, Ch. 6.

Sec. 5-63. Licenses required.

All contractors shall, in order to obtain permits in the City, provide the Commissioner of Buildings with proof of licensure by the State Board for Contractors and proof of having obtained a business license either in the City or other locality unless the contractor is headquartered in a locality without business licensing provisions; provided, however, that the contractor shall obtain a City business license if the total revenue for work done in the City shall exceed $25,000.00 in any calendar year.

(Code 1993, § 5-70; Code 2004, § 14-81; Code 2015, § 5-63)

Cross reference—License tax on contractors, § 26-956.

State law reference—Authority to require, Code of Virginia, § 54.1-1117.

Secs. 5-64—5-84. Reserved.

ARTICLE IV. SPOT BLIGHT ABATEMENT PROGRAM*

***Cross reference—**Nuisances, § 11-74 et seq.

DIVISION 1. GENERALLY

Sec. 5-85. Purpose.

The purpose of this article is to provide for the City to acquire or repair any blighted property by purchase or through the exercise of the power of eminent domain, and further to hold, clear, repair, manage or dispose of such property for purposes and in a manner consistent with general law and the authority set forth in Code of Virginia, § 36-49.1:1.

(Code 2004, § 14-200; Code 2015, § 5-85; Ord. No. 2007-295-276, § 1, 11-26-2007)

Sec. 5-86. Adoption of State law by reference.

All of the provisions and requirements of the laws of the Commonwealth of Virginia contained in Code of Virginia, §§ 36-49.1:1, 25.1-200--25.1-251, and 36-27(B), and all future amendments to such laws, are hereby adopted and incorporated into this article by reference.

(Code 2004, § 14-201; Code 2015, § 5-86; Ord. No. 2007-295-276, § 1, 11-26-2007)

Sec. 5-87. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blighted property means any individual commercial, industrial or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted pursuant to Code of Virginia, § 36-49.1:1, under the process for determination of spot blight.

City Blight Abatement Plan means the plan prepared by the City to address spot blight if the owners fail to respond with an acceptable Spot Blight Abatement Plan.

Mayor means the Mayor, or a person designated by the Mayor to perform the duties and responsibilities that this article places on the Mayor.

Spot blight means a structure or improvement that is a blighted property as defined in this section.

Spot Blight Abatement Plan means the written plan prepared by the owner or owners of record of the real property to address spot blight.

(b) In addition, some terms not defined herein are defined in Code of Virginia, § 36-3 and are incorporated by reference herein.

(Code 2004, § 14-202; Code 2015, § 5-87; Ord. No. 2007-295-276, § 1, 11-26-2007)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 36-3.

Secs. 5-88—5-117. Reserved.

DIVISION 2. PROCEDURE*

***State law reference—**Spot blight abatement, Code of Virginia, § 36-49.1:1.

Sec. 5-118. Procedure; preliminary determination of blight.

(a) The Mayor shall make a preliminary determination that a property is blighted property in accordance with this article. The Mayor shall provide written notice to the owner or owners of record of such property as required by general law, specifying the reasons why the property is blighted.

(b) The owner or owners of record shall have 30 days from the date the notice is sent in which to respond in writing with a Spot Blight Abatement Plan to address the blight within a reasonable time.

(Code 2004, § 14-203; Code 2015, § 5-118; Ord. No. 2007-295-276, § 1, 11-26-2007)

Sec. 5-119. Hearing before Planning Commission.

(a) If the owner or owners fail to eliminate the blight within the 30-day period or if the owner or owners fail to respond within the 30-day period with a Spot Blight Abatement Plan that is acceptable to the Mayor, then the Mayor:

(1) May request the City Planning Commission to conduct a public hearing and make findings and recommendations that shall be reported to the City Council concerning the repair or other disposition of the property in question; and

(2) In the event a public hearing is scheduled, shall prepare a written City Blight Abatement Plan for the repair or other disposition of the property for consideration by the City Planning Commission at its public hearing.

(b) Notice of all public hearings shall be in accordance with general law.

(Code 2004, § 14-204; Code 2015, § 5-119; Ord. No. 2007-295-276, § 1, 11-26-2007)

State law reference—Similar provisions, Code of Virginia, § 49.1:1(C).

Sec. 5-120. Planning Commission hearing requirements.

(a) After hearing testimony from all affected parties, the Planning Commission shall do the following:

(1) Determine whether the property is blighted;

(2) Determine whether the owner or owners have failed to cure the blight or to present a reasonable Spot Blight Abatement Plan to do so;

(3) Determine if the plans presented for the repair or other disposition of the property are in accordance with the locally adopted comprehensive plan, zoning ordinances and other applicable land use regulations; and

(4) Review any comments received from the Commission of Architectural Review provided in those cases where the property is located within an area listed on the National Register of Historic Places and where the Commission of Architectural Review has been consulted as required by general law.

(b) At the close of the public hearing on the property, the City Planning Commission shall report its findings and recommendations on the plan to the City Council.

(Code 2004, § 14-205; Code 2015, § 5-120; Ord. No. 2007-295-276, § 1, 11-26-2007)

Sec. 5-121. City Council action.

Following the receipt of the City Planning Commission's report, the City Council may, after an advertised public hearing, affirm, modify or reject the City Planning Commission's findings and recommendations on the plan. If the City Planning Commission's recommendation is affirmed by the City Council, then the Mayor may cause the approved plan to be implemented. If the City repairs or acquires property under its City Blight Abatement Plan, it shall have a lien on all property so repaired or acquired as provided by Code of Virginia, § 36-49.1:1(G).

(Code 2004, § 14-206; Code 2015, § 5-121; Ord. No. 2007-295-276, § 1, 11-26-2007)

Sec. 5-122. Policies and regulations.

The Mayor may issue policies and regulations, which may be revised from time to time, for implementation of this article and consistent with the purpose and intent of Code of Virginia, § 36-49.1:1.

(Code 2004, § 14-207; Code 2015, § 5-122; Ord. No. 2007-295-276, § 1, 11-26-2007)

Sec. 5-123. Other laws and ordinances.

Nothing in this article shall be construed to relieve an owner of blighted property, or any other person or entity from complying with other applicable laws relating to the development, use, rehabilitation, condition, maintenance or taxation of real property. The provisions of this article shall be in addition to any other remedies for blight abatement set out in general law or this Code.

(Code 2004, § 14-208; Code 2015, § 5-123; Ord. No. 2007-295-276, § 1, 11-26-2007)

Secs. 5-124—5-144. Reserved.

ARTICLE V. DERELICT BUILDING PROGRAM*

***Cross reference—**Nuisances, § 11-74 et seq.

State law reference—Derelict building programs, Code of Virginia, § 15.2-907.1.

Sec. 5-145. Established.

In accordance with Code of Virginia, § 15.2-907.1, there is hereby established a derelict building program. The purpose of the derelict building program is to establish a procedure by which the City and property owners may reduce the number of derelict buildings, as defined herein, in the City and improve the health, safety and welfare of communities within the City.

(Code 2004, § 14-221; Code 2015, § 5-145; Ord. No. 2013-15-18, § 1, 2-25-2013)

Sec. 5-146. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Derelict building means a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety or welfare and for a continuous period in excess of six months, such building or structure has been:

(1) Vacant;

(2) Boarded up in accordance with the building code; and

(3) Not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider.

Plan means the plan submitted by the owner of a derelict building to the Commissioner of Buildings in accordance with Section 5-149.

Program means the derelict building program established by Section 5-145.

(Code 2004, § 14-222; Code 2015, § 5-146; Ord. No. 2013-15-18, § 1, 2-25-2013)

Cross reference—Definitions generally, § 1-2.

Sec. 5-147. Administration.

The Commissioner of Buildings shall administer the program and promulgate such rules and regulations not inconsistent with the provisions of this Code and other applicable laws as the Commissioner of Buildings deems necessary for the effective administration of the program. With the advice of the City Attorney, the Commissioner of Buildings shall develop the appropriate form for the notice required by Section 5-148. The Commissioner of Buildings shall also develop standards for the approval of plans and the appropriate forms for the submission of plans by the owners of derelict buildings in accordance with Section 5-149. The Commissioner shall complete and publicize such standards within 90 days of the adoption of the ordinance providing for the program established by Section 5-145. In addition, the Commissioner shall submit a report to the Council on or before January 31 of each year concerning the number of properties declared to be derelict in accordance with this article within the calendar year ending on the immediately preceding December 31.

(Code 2004, § 14-223; Code 2015, § 5-147; Ord. No. 2013-15-18, § 1, 2-25-2013)

Sec. 5-148. Notice of declaration of derelict property.

(a) Whenever the Commissioner of Buildings determines that there exists upon land in the City any derelict building, the Commissioner of Buildings shall deliver written notice of such determination to the address listed on the real estate tax assessment records of the City Assessor. Such notice shall be delivered by certified mail and shall constitute delivery for purposes of this section.

(b) The written notice required by subsection (a) of this section shall state that the owner of the derelict building is required to submit to the Commissioner of Buildings a plan, within 90 days, to demolish or renovate such building to address the items that endanger the public's health, safety or welfare as listed in the written notification provided by the Commissioner of Buildings.

(Code 2004, § 14-224; Code 2015, § 5-148; Ord. No. 2013-15-18, § 1, 2-25-2013)

Sec. 5-149. Submission of plan by property owner; approval by Commissioner of Buildings; penalty for noncompliance.

(a) Any owner of a derelict building to whom the Commissioner of Buildings has sent a written notice in accordance with Section 5-148 shall submit to the Commissioner of Buildings a plan, within 90 days, to demolish or renovate such building to address the items that endanger the public's health, safety or welfare as listed in the written notification provided by the Commissioner of Buildings. Such plan shall be submitted on forms provided by the Commissioner of Buildings and shall include a proposed time within which the plan will be commenced and

completed.

(b) The Commissioner of Buildings shall review any plans submitted in accordance with this section. Such plans shall be subject to approval by the Commissioner of Buildings and shall be deemed noncompliant until such plan is approved by the Commissioner of Buildings.

(c) Any person who owns or controls a derelict building for which the Commissioner of Buildings has delivered a written notice in accordance with Section 5-148 who fails to submit a plan in accordance with this section or who fails to comply with the contents of an approved plan or the dates for commencement and completion as specified in such plan shall be guilty of a Class 2 misdemeanor, the penalty for which may include confinement in jail for not more than six months and a fine of not more than $1,000.00, either or both, and each day of violation shall be a separate violation.

(Code 2004, § 14-225; Code 2015, § 5-149; Ord. No. 2013-15-18, § 1, 2-25-2013)

Sec. 5-150. Plan completion; permit fee refund.

(a) If an approved plan submitted by the owner of a derelict building to whom the Commissioner of Buildings has sent a written notice in accordance with Section 5-148 calls for demolition of the derelict building, upon submission of proof of completion of such demolition within 90 days of the date of the building permit issuance, the Commissioner of Buildings shall refund to such owner any building and demolition permit fees. However, this section shall not supersede any provision of Chapter 30, Article IX, Division 4 or any ordinance adopted pursuant to Code of Virginia, § 15.2-2306 relative to historic districts.

(b) If an approved plan submitted by the owner of a derelict building to whom the Commissioner of Buildings has sent a written notice in accordance with Section 5-148 calls for renovation of the derelict building, and no rezoning is required for the owner's intended use of the property:

(1) No building permit fees shall exceed the lesser of 50 percent of the standard fees established for building permit applications for the proposed use of the property, or $5,000.00 per property; and

(2) No site plan or subdivision fees shall exceed the lesser of 50 percent of the standard fees established for site plan or subdivision applications for the proposed use of the property, or $5,000.00 per property.

(Code 2004, § 14-226; Code 2015, § 5-150; Ord. No. 2013-15-18, § 1, 2-25-2013)

Sec. 5-151. Additional remedies for noncompliance; receivership.

Notwithstanding the provisions of Section 5-149, the City may proceed to make repairs and secure the derelict building under Code of Virginia, § 15.2-906, or abate or remove a nuisance under Code of Virginia, § 15.2-900. In addition, the City may exercise such remedies as may exist under the Uniform Statewide Building Code and may exercise such other remedies available under general and special law. In accordance with Code of Virginia, § 15.2-907.2, the Chief Administrative Officer may petition the Circuit Court for the appointment of the City to act as a receiver to repair real property that contains residential dwelling units, subject to the fulfillment of all of the requirements set forth in Code of Virginia, § 15.2-907.2, and shall have the authority to implement all of the remedies and carry out all necessary actions set forth in Code of Virginia, § 15.2-907.2.

(Code 2004, § 14-227; Code 2015, § 5-151; Ord. No. 2013-15-18, § 1, 2-25-2013)

Chapter 6

BUSINESSES AND BUSINESS REGULATIONS*

***Charter reference**—Authority of City to regulate or prohibit the exercise of dangerous, offensive or unhealthful businesses, trades or employments, § 2.04(j); authority of City to regulate light, ventilation, sanitation and use of buildings, § 2.04(k); authority of City Council to require licenses and permits, § 2.07.

Cross reference—Amusements and entertainments, Ch. 3; contractors, § 5-63 et seq.; emergency medical services, § 10-78 et seq.; sidewalk cafes, § 24-219 et seq.; taxation, Ch. 26; admission taxes, § 26-694 et seq.; transient lodging tax, § 26-724 et seq.; sales tax, § 26-844 et seq.; license taxes, § 26-867 et seq.; utilities, Ch. 28; vehicles for hire, Ch. 29.

State law reference—Businesses, professions, occupations, Code of Virginia, § 54.1-100 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Identification of public service corporation employees.

(a) All public service corporations maintaining any equipment, appliance or property of such corporation in private or public buildings shall keep a list showing the name, residence and number of their employees who enter such buildings and shall provide a suitable badge indicating the corporation represented by them and the number assigned to such employee. Such badges shall be worn conspicuously by every employee entering such buildings for the purpose of inspection or repair of such equipment, appliances or property.

(b) Every corporation violating subsection (a) of this section and any employee entering any building for the purpose stated in subsection (a) of this section without wearing such badge and any person who shall wear such badge who is not an employee of such corporation shall, upon conviction, be punished as provided in Section 1-16.

(Code 1993, § 6-1; Code 2004, § 18-1; Code 2015, § 6-1)

Sec. 6-2. Identification of furniture movers.

It shall be unlawful for any person removing household furniture or personal effects, other than baggage of persons arriving in or departing from the City, from place to place in the City, or for the driver of any vehicle engaged in such removal to refuse to give the name of the owner of the effects so removed or such person's own name or to give in either case a fictitious name or wrong name, when requested by any member of the Department of Police or by any person having a material interest in such removal.

(Code 1993, § 6-2; Code 2004, § 18-2; Code 2015, § 6-2)

Secs. 6-3—6-22. Reserved.

ARTICLE II. HOTELS AND MOTELS*

***Cross reference**—Boardinghouses, lodginghouses, and roominghouses, § 13-83 et seq.; transient lodging tax, § 26-724 et seq.; license tax for hotels, campsites, trailer parks and other lodging businesses, § 26-961.

State law reference—Hotels, Code of Virginia, § 35.1-13; campgrounds, Code of Virginia, § 35.1-1 et seq.

Sec. 6-23. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel and *motel* mean any building or group of buildings containing guestrooms or dwelling units, or both, which are intended, used or designed to be rented, let or hired out for compensation by automobile tourists or other transients, whether such compensation is paid directly or indirectly. The terms include hotels, motels, motor hotels, tourist courts, motor lodges, and the like. The daily or weekly rental of units or any sign on the premises making reference to other than monthly rates shall be considered prima facie evidence that a building is a hotel or motel and subject to all of the restrictions and requirements of this article.

Transient guest means a person who leases, rents or puts up at a hotel or motel.

(Code 1993, § 6-16; Code 2004, § 18-36; Code 2015, § 6-23)

Cross reference—Definitions generally, § 1-2.

Sec. 6-24. Violations.

Any person who shall violate any of the sections of this article shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 6-21; Code 2004, § 18-37; Code 2015, § 6-24)

Sec. 6-25. Numbering of rooms.

Each sleeping room, living room or dwelling unit in a motel or hotel shall be numbered or designated in a plain, conspicuous manner. Such number or designation shall be placed on the outside of the outer door of each sleeping room, living room or dwelling unit, and no two rooms or units shall bear the same number or designation.

(Code 1993, § 6-17; Code 2004, § 18-38; Code 2015, § 6-25)

Sec. 6-26. Guest register generally.

(a) Every person who operates a motel or hotel where rooms or units are let to the public shall at all times keep and maintain therein a guest register in which shall be inscribed, with ink or indelible pencil, or entered into a computer or other electronic-based guest registry, either the name and home or business address of each guest or person age 14 years or older renting or occupying a room or the name of the organization making the reservation for the guest or person age 14 years or older, as well as the guest's vehicle description and license plate information. Such register shall be signed by the person renting a room or confirmed by a computer entry or other electronic database entry by an authorized employee of the hotel or motel. The proprietor of such hotel or motel or the proprietor's agent shall thereupon write with ink or indelible pencil or enter into a computer or other electronic database or data entry system opposite such name so registered the number of each room assigned to and occupied by such guest, together with the date when such room is rented. Until all of the entries have been made in such register, no guest shall be suffered or permitted to occupy privately any room in such motel or hotel. When the occupant of a room or space so rented shall vacate and surrender the room, it shall be the further duty of the proprietor of the hotel or motel or the proprietor's agent to maintain for one year a record of the date when such room was vacated and surrendered.

(b) The guest register required by this section shall be subject to inspection at any and all reasonable times by the Chief of Police or by any police officer in the performance of such officer's duties.

(c) The guest vehicle parking area of every hotel or motel shall be accessible at all times to any police officer in the performance of the police officer's duties.

(Code 1993, § 6-18; Code 2004, § 18-39; Code 2015, § 6-26)

Sec. 6-27. False registration of guest.

It shall be unlawful for any person to write or cause to be written or knowingly permit to be written in the guest register of any hotel or motel a name or designation other than the true name of the person registered therein or the name by which such person is generally known or to enter false information regarding such person's vehicle and address.

(Code 1993, § 6-19; Code 2004, § 18-40; Code 2015, § 6-27)

Sec. 6-28. Maximum occupancy.

It shall be unlawful for any person operating, conducting or managing any motel or hotel in the City where rooms are let to permit any room or space to be occupied in excess of the maximum occupant load for such room or space, as certified by the Fire Marshal in accordance with the Statewide Fire Prevention Code (Chapter 13, Article V).

(Code 1993, § 6-20; Code 2004, § 18-41; Code 2015, § 6-28)

Secs. 6-29—6-59. Reserved.

ARTICLE III. MASSAGE THERAPY*

***Cross reference—**Health, Ch. 15; license tax on massage practitioners, § 26-964.

State law reference—Qualifications of massage therapists, Code of Virginia, § 54.1-3029.

Sec. 6-60. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beauty salon means an establishment not located in a residence which provides one or more of the following services in exchange for consideration: hair care, skin care, makeovers, facials, manicures, pedicures or body waxing.

Care facility means a hospital, nursing home, convalescent care facility, assisted living facility, life care facility or group care facility.

Certified massage therapist means any person who administers a massage to a patron, in exchange for consideration, and who is qualified as a certified massage therapist pursuant to the requirements of Code of Virginia, §§ 54.1-3000 and 54.1-3029.

Health club means an establishment which provides health and fitness equipment and programs for its patrons' use. A health club may be located in a hotel or motel but not in a guestroom in a hotel or motel.

Massage means the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the body. The term "massage" does not include placing hands on, touching, fondling or massaging the sexual or genital parts of another or exposing one's sexual or genital parts to any other person. The term "massage" also does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

Massage establishment means a fixed place of business where a certified massage therapist gives a patron a massage.

Patron means the person receiving the massage.

Public gathering means any event occurring in the City that is open to the general public and involves more than 50 persons.

Seated massage means a massage of the upper body or feet while the massage patron is fully clothed and seated in a chair.

Sexual or genital parts means the genitals, pubic area or anus of any person and the breasts of a female person.

Tanning salon means an establishment which has as its primary business the provision of tanning services in exchange for consideration.

(Code 1993, § 6-30; Code 2004, § 18-76; Code 2015, § 6-60)

Cross reference—Definitions generally, § 1-2.

Sec. 6-61. Exemptions.

This article shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors and osteopaths who are duly licensed to practice their respective professions in the State and their employees acting under their direction and supervision in connection with the practice of medicine, chiropractic or osteopathy by recognized means.

(2) Physical therapists who are duly licensed to practice physical therapy by the State.

(3) Employees of nursing homes and hospitals which are duly licensed by the State, provided that the employees are acting at the direction and under the supervision of licensed health care professionals.

(4) Nurses who are registered under the laws of the State.

(5) Trainers of any amateur, semiprofessional or professional athlete or athletic team.

(6) Barbers and beauticians who are duly licensed under the laws of the State and who administer massage only to the scalp, face, neck or shoulders.

(Code 1993, § 6-31; Code 2004, § 18-77; Code 2015, § 6-61)

Sec. 6-62. When and where massage may be given.

(a) It shall be unlawful for any person to give a massage in exchange for consideration within the City unless:

(1) The massage is given for medical, relaxation, remedial or hygienic purposes; and

(2) The person giving the massage is a certified massage therapist.

(b) A certified massage therapist may give a massage in the City only at the following locations and under the following conditions:

(1) At a massage establishment;

(2) At the regular place of business, not located in a residence, of the massage patron during the regular business hours of such business;

(3) At a beauty salon;

(4) At a care facility;

(5) At a health club;

(6) At a public gathering;

(7) At a tanning salon; and

(8) Except as otherwise prohibited in this section, at a place provided by the massage recipient, provided that, regardless of location, the certified massage therapist shall possess the certificate issued to the certified massage therapist by the State Board of Nursing.

(Code 1993, § 6-32; Code 2004, § 18-78; Code 2015, § 6-62)

Sec. 6-63. Display of certificate.

Each certified massage therapist shall conspicuously post the current certificate issued to the massage therapist by the State Board of Nursing in a public area at the massage therapist's massage establishment, or other allowable locations as referenced in Section 6-62.

(Code 1993, § 6-33; Code 2004, § 18-79; Code 2015, § 6-63)

Sec. 6-64. Unlawful acts by certified massage therapists or patrons.

(a) It shall be unlawful for a certified massage therapist to:

(1) Place hands upon, to touch with any part of the massage therapist's body, to fondle in any manner, or to massage a sexual or genital part of a patron;

(2) Expose the massage therapist's sexual or genital parts or any portion thereof to a patron;

(3) Expose the sexual or genital parts or any portion thereof of a patron; or

(4) Fail to conceal with a fully opaque covering the sexual or genital parts of the massage therapist's body while in the presence of a patron.

(b) It shall be unlawful for a patron to:

(1) Place hands upon, to touch with any part of the patron's body, to fondle in any manner, or to massage a sexual or genital part of a certified massage therapist;

(2) Expose the patron's sexual or genital parts or any portion thereof to a certified massage therapist;

(3) Expose the sexual or genital parts or any portion thereof of a certified massage therapist; or

(4) Fail to conceal with a fully opaque covering the sexual or genital parts of the patron's body while in the presence of a certified massage therapist.

(Code 1993, § 6-34; Code 2004, § 18-80; Code 2015, § 6-64)

Sec. 6-65. Prohibited advertising.

It shall be unlawful for a person who is neither a certified massage therapist nor a member of a profession exempted pursuant to Section 6-61 or for a business in which all of the employees administering massage are neither certified massage therapists nor members of an exempted profession, to use the word "massage" on any sign or other form of advertising, including a listing in a telephone or other business directory.

(Code 1993, § 6-35; Code 2004, § 18-81; Code 2015, § 6-65)

Sec. 6-66. Duties of Chief of Police.

The Chief of Police shall notify the State Board of Nursing whenever any person who has been issued a massage therapy permit is convicted for violating any of the offenses listed in Section 6-64 or any other offense for which the certificate for a massage therapist could be revoked pursuant to Code of Virginia, § 54.1-3007.

(Code 1993, § 6-36; Code 2004, § 18-82; Code 2015, § 6-66)

Secs. 6-67—6-89. Reserved.

ARTICLE IV. TATTOOING AND TATTOO PARLORS*

***Cross reference**—Health, Ch. 15.

State law reference—Regulation of tattoo parlors, Code of Virginia, § 15.2-912; tattooing or body piercing of minors, Code of Virginia, § 18.2-371.3.

Sec. 6-90. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Body piercing salon means any place in which a fee is charged for the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature. The term "body piercing" does not include the use of a mechanized, presterilized ear piercing system that penetrates the outer perimeter or lobe of the ear or both.

Tattoo means to place any design, letter, scroll, figure, symbol or any other mark upon or under the skin of any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent makeup or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

Tattoo artist means any person who performs the work of tattooing.

Tattoo parlor means any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent makeup or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

(Code 1993, § 6-71(a); Code 2004, § 18-156; Code 2015, § 6-91)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar definitions, Code of Virginia, §§ 15.2-912(B), 18.2-371.3.

Sec. 6-91. Exemption.

This article shall not apply to medical doctors, veterinarians, registered nurses or any other medical services personnel licensed pursuant to Code of Virginia, Title 54.1 in performance of their professional duties.

State law reference—Similar provisions, Code of Virginia, § 15.2-912(C).

Sec. 6-92. Informed consent.

(a) It shall be unlawful for any person to administer a tattoo without first:

(1) Explaining the risks and dangers of tattooing as set forth in Section 6-97(b); and

(2) Obtaining the client's prior written informed consent.

(b) For purposes of this section, no person under the age of 18 years shall be deemed capable of giving informed consent.

(Code 1993, § 6-71(b); Code 2004, § 18-157; Code 2015, § 6-92)

Sec. 6-93. Water supply; sterilization of instruments.

(a) All tattoo parlors shall have running hot and cold water and facilities for cleaning, disinfection, and fungicidal treatment of instruments. All instruments shall be sterilized by subjecting them to autoclaving at the following temperatures:

(1) Twenty minutes at 121 degrees Celsius;

(2) Fifteen minutes at 126 degrees Celsius; or

(3) Five minutes at 134 degrees Celsius.

(b) It shall be unlawful to use any instrument to administer a tattoo to a client which has not been so sterilized.

(Code 1993, § 6-71(c); Code 2004, § 18-158; Code 2015, § 6-93)

Sec. 6-94. Disposal of waste.

All waste generated by tattooing, other than needles, shall be collected in a sealable leakproof plastic bag or box before disposal. Needles shall be disposed of in accordance with Section 23-4.

(Code 1993, § 6-71(d); Code 2004, § 18-159; Code 2015, § 6-94)

Cross reference—Solid waste, Ch. 23.

Sec. 6-95. Client restrictions.

A tattoo artist shall not knowingly serve a client who is either infected with a fungus infection or a communicable disease, or under the influence of alcohol or drugs.

(Code 1993, § 6-71(e); Code 2004, § 18-160; Code 2015, § 6-95)

Sec. 6-96. Inspections generally.

For purposes of enforcing this article, the District Health Department and its agents are authorized to enter tattoo parlors to inspect. Such inspections may be unannounced. Any person who fails to allow any such inspection shall be deemed guilty of a Class 3 misdemeanor.

(Code 1993, § 6-71(f); Code 2004, § 18-161; Code 2015, § 6-96)

Sec. 6-97. Epidemiological surveillance.

(a) The Health Department reserves the right to conduct epidemiological surveillance related to bloodborne pathogens, including Hepatitis B and C, and Human Immunodeficiency Syndrome (HIV/AIDS) related to tattooing.

(b) No person shall tattoo or perform body piercing on any client unless such person complies with the Centers for Disease Control and Prevention's guidelines for "Universal Blood and Body Fluid Precautions" and provides the client with the following disclosure pursuant to Code of Virginia, § 18.2-371.3:

(1) Tattooing and body piercing are invasive procedures in which the skin is penetrated by a foreign object.

(2) If proper sterilization and antiseptic procedures are not followed by tattoo artists and body piercers, there is risk of transmission of bloodborne pathogens and other infections, including, but not limited to, human immunodeficiency viruses and Hepatitis B or C viruses.

(3) Tattooing and body piercing may cause allergic reactions in persons sensitive to dyes or the metals used in ornamentation.

(4) Tattooing and body piercing may involve discomfort or pain for which appropriate anesthesia cannot be legally made available by the person performing the tattoo or body piercing unless such person holds the appropriate license from a State Health Regulatory Board.

(Code 1993, § 6-71(g); Code 2004, § 18-162; Code 2015, § 6-97)

Secs. 6-98—6-122. Reserved.

ARTICLE V. ADVERTISING PRACTICES*

***Cross reference—**Amusements and entertainments, Ch. 3; permit for use of loudspeakers on vehicles or mercantile establishments, § 11-29; advertisements and advertising in cemeteries, § 7-28; license tax on advertising agents, § 26-931.

DIVISION 1. GENERALLY

Sec. 6-123. Placing handbills, signs or other advertising matter in or on vehicles.

It shall be unlawful for any person to place or cause to be placed any handbill, card, placard, sign, bulletin or other advertising matter or device of any kind or description in or on any vehicle of another in any street, alley or other public place in the City. However, this section shall not apply where the owner of any such vehicle has granted permission to such other person to attach any advertising matter or device in or on the owner's vehicle.

(Code 1993, § 6-81; Code 2004, § 18-196; Code 2015, § 6-123)

Cross reference—Traffic and vehicles, Ch. 27.

Sec. 6-124. Throwing or placing samples of medicine or merchandise.

It shall be unlawful for any person or for the agent of any person to throw or place or cause to be thrown or placed, in any yard, hall, porch, doorway or vestibule of any private residence, boardinghouse or apartment house, any sample or sample package of medicine or merchandise of any description whatsoever.

(Code 1993, § 6-82; Code 2004, § 18-197; Code 2015, § 6-124)

Sec. 6-125. Dropping advertising material from aircraft.

It shall be unlawful for any person to drop or cause to be dropped from aircraft any form of commercial, noncommercial, or political advertising, promotion, solicitation, communication, or display, which thereafter falls to the ground within the City limits.

(Code 1993, § 6-83; Code 2004, § 18-198; Code 2015, § 6-125)

Secs. 6-126—6-148. Reserved.

DIVISION 2. DECEPTIVE ADVERTISING*

***State law reference—**Virginia Consumer Protection Act of 1977, Code of Virginia, § 59.1-196 et seq.

Sec. 6-149. Unlawful conduct generally.

(a) As used in this section, the terms "untrue," "deceptive" and "misleading" shall be construed as including the following:

(1) The advertising in any matter by any person of any goods, wares or merchandise as a bankrupt stock, receiver's stock or trustee's stock, if such stock contains any goods, wares or merchandise put therein 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 therein, 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 of the advertisement, which 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.

(b) Any person who, with intent to sell or in any way 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 the consumption thereof or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, 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, bill, tag, 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 which 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.

(Code 1993, § 6-91; Code 2004, § 18-221; Code 2015, § 6-149)

State law reference—Similar provisions, Code of Virginia, § 18.2-216.

Sec. 6-150. Unauthorized use of name or picture of person.

A person who knowingly uses for advertising purposes or for the purpose of trade the name, portrait or picture of any person resident in the City, without having first obtained the written consent of such person or, if dead, of such person's surviving consort or, if none, such person's next of kin or, if a minor, of such person's parent or guardian, as well as that of such minor, shall, upon conviction, be deemed guilty of a misdemeanor and fined not less than $50.00 nor more than $1,000.00.

(Code 1993, § 6-92; Code 2004, § 18-222; Code 2015, § 6-150)

State law reference—Similar provisions, Code of Virginia, § 18.2-216.1.

Sec. 6-151. Advertising for sale with intent not to sell at price or terms advertised.

(a) Any person who in any manner advertises or offers for sale to the public any merchandise, goods, commodity, service or thing with intent not to sell or with intent not to sell at the price or upon the terms advertised or offered shall, upon conviction, be guilty of a Class 1 misdemeanor.

(b) In any prosecution or civil action under this section, the refusal by any person or any employee, agent or servant thereof to sell or the refusal to sell at the price or upon the terms advertised or offered any merchandise, goods, commodity, service or thing advertised or offered for sale to the public shall be prima facie evidence of a violation of this section. However, this subsection shall not apply when it is clearly stated in the advertisement or offer by which such merchandise, goods, commodity, service or thing is advertised or offered for sale to the public that the advertiser or offeror has a limited quantity or amount of such merchandise, goods, commodity, service or thing for sale and the advertiser or offeror at the time of such advertisement or offer did in fact have at least such quantity or amount for sale.

(Code 1993, § 6-93; Code 2004, § 18-223; Code 2015, § 6-151)

State law reference—Similar provisions, Code of Virginia, § 18.2-217.

Sec. 6-152. Failure to indicate defective, blemished, secondhand or used goods.

Upon conviction, a person shall be guilty of a Class 1 misdemeanor if the person in any manner knowingly advertises or offers for sale to the public any merchandise, goods, commodity or thing which is defective, blemished, secondhand or used or which has been designated by the manufacturer thereof as "seconds," "irregulars," "imperfects," "not first class," or words of similar import without clearly and unequivocally indicating in the advertisement or offer of the merchandise, goods, commodity or thing or the articles, units or parts thereof so advertised or offered for sale to the public is or are defective, blemished, secondhand or used or consist of seconds, irregulars, imperfects or not first class.

(Code 1993, § 6-94; Code 2004, § 18-224; Code 2015, § 6-152)

State law reference—Similar provisions, Code of Virginia, § 18.2-218.

Sec. 6-153. Advertising former or comparative price of merchandise.

(a) *Definitions.* In addition to the definitions listed in Code of Virginia, § 59.1-198, as used in this section, the following terms shall have the following meanings:

Former price or *comparison price* means the direct or indirect comparison in any advertisement, whether or not expressed wholly or in part in dollars, cents, fractions, or percentages, and whether or not such price is actually stated in the advertisement.

Substantial sales means a substantial aggregate volume of sales of identical or comparable goods or services at or above the advertised comparison price in the supplier's trade area.

(b) *Advertising former price of goods or services.* No supplier shall in any manner knowingly advertise a former price of any goods or services unless:

(1) Such former price is the price at or above which substantial sales were made in the recent regular course of business;

(2) Such former price was the price at which such goods or services or goods or services of substantially the same kind, quality, or quantity and with substantially the same service were openly and actively offered for sale for a reasonably substantial period of time in the recent regular course of business honestly, in good faith and not for the purpose of establishing a fictitious higher price on which a deceptive comparison might be based;

(3) Such former price is based on a markup that does not exceed the supplier's cost plus the usual and customary markup used by the supplier in the actual sale of such goods or services or goods or services of substantially the same kind, quality, or quantity and with substantially the same service, in the recent regular course of business; or

(4) The date on which substantial sales were made, or the goods or services were openly and actively offered for sale for a reasonably substantial period of time at the former price is advertised in a clear and conspicuous manner.

(c) *Advertising comparison price of goods or services.* No supplier shall in any manner knowingly advertise a comparison price which is based on another supplier's price unless:

(1) The supplier can substantiate that the comparison price is the price offered for sale by another supplier in the regular course of business for goods or services of substantially the same kind and quality, and with substantially the same service in the defined trade area;

(2) The trade area to which the advertisement refers is clearly defined and disclosed; and

(3) A clear and conspicuous disclosure is made in the advertisement that the price used as a basis of comparison is another supplier's price, and not the supplier's own price.

(d) *Use of certain terms in advertising former or comparison prices.*

(1) No supplier shall advertise a former or comparison price in terms of "market value," "valued at" or words of similar import unless such price is the price at which the goods or services, or goods or services of substantially the same kind, quality or quantity, are offered for sale by a reasonable number of suppliers in the supplier's trade area.

(2) A supplier may advertise a former or comparison price in terms of "manufacturer's suggested price," "suggested retail price," "list price," or words of similar import, provided that, with regard to such advertising, the use of the former or comparison price complies with 15 USC 45(a)(1) and the regulations of the Federal Trade Commission adopted thereunder.

(e) *Enforcement; penalty.* It shall be the responsibility of any supplier who uses a comparison price to be able to substantiate the basis for any price comparisons made by the supplier. Upon the request of the City Attorney, a supplier shall provide documentation to substantiate the basis for any comparison price utilized by the supplier in any advertisement governed by this section. No provision of this section shall be construed to apply to any supplier whose advertising practices are governed by Code of Virginia, § 46.2-1581. Willful violations of this section are subject to a civil penalty of not more than $2,500.00 per violation.

(Code 1993, § 6-95; Code 2004, § 18-225; Code 2015, § 6-153)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, §§ 59.1-206, 59.1-207.40 et seq.

Sec. 6-154. Use of word "wholesale" or "wholesaler."

Any person who in any manner in any advertisement or offer for sale to the public of any merchandise, goods,

commodity or thing uses the word "wholesale" or "wholesaler" to represent or describe the nature of such person's business shall, upon conviction, be guilty of a Class 1 misdemeanor, unless such person is actually engaged in selling at wholesale the merchandise, goods, commodity or thing advertised or offered for sale.

(Code 1993, § 6-96; Code 2004, § 18-226; Code 2015, § 6-154)

State law reference—Similar provisions, Code of Virginia, § 18.2-220.

Secs. 6-155—6-176. Reserved.

ARTICLE VI. DISTRESS SALES*

***State law reference—**Mandate for this article, Code of Virginia, §§ 18.2-223, 18.2-224.

DIVISION 1. GENERALLY

Sec. 6-177. Purpose.

This article is adopted pursuant to the powers conferred by Sections 2.01 and 2.04 of the Charter and Code of Virginia, § 18.2-224, to promote and preserve public morals and welfare and economic integrity and fair dealing between sellers and buyers and to prevent fraud, deceit and dishonesty in business dealings and transactions, by regulating the conduct of certain sales of goods, wares and merchandise.

(Code 1993, § 6-111; Code 2004, § 18-261; Code 2015, § 6-177)

Sec. 6-178. Exclusions.

This article shall not apply to the following:

(1) A common carrier of freight;

(2) A receiver, assignee, trustee, executor, administrator, fiduciary, officer in bankruptcy or other officer appointed by any court of this State or of the United States;

(3) Any person acting for or pursuant to the authority of a receiver, assignee, trustee, executor, administrator, fiduciary, officer in bankruptcy or other officer appointed as provided in subsection (2) of this section; or

(4) Any sale conducted by a common carrier of freight or by such persons mentioned in this section.

(Code 1993, § 6-112; Code 2004, § 18-262; Code 2015, § 6-178)

Sec. 6-179. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sale means an event or a series of events during which goods, wares and merchandise are offered for sale to the public, called insurance sale, bankruptcy or bankrupt sale, going out of business sale, quitting business sale, assignee's sale, fire sale, smoke sale, water sale and sales bearing similar names or of similar import, which tend to indicate that the retail business is to be discontinued and the merchandise liquidated.

(Code 1993, § 6-113; Code 2004, § 18-263; Code 2015, § 6-179)

Cross reference—Definitions generally, § 1-2.

Sec. 6-180. Prohibited acts.

It shall be unlawful for any person to advertise or to conduct a sale as defined in Section 6-179 for the purpose of discontinuing a retail business or to modify the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated, unless such person obtains a permit from the Chief of Police to conduct such sale as required by this article.

(Code 1993, § 6-114; Code 2004, § 18-264; Code 2015, § 6-180)

State law reference—Similar provisions, Code of Virginia, § 18.2-223.

Sec. 6-181. Commingling or adding articles with those offered for sale.

It shall be unlawful for any person to add to or commingle with the goods, wares and merchandise listed on the inventory required by Section 6-202 at or during a sale any other goods, wares or merchandise. The goods, wares and merchandise offered for sale shall, before they are sold or offered for sale, be separated from other goods, wares and merchandise on the premises being offered for sale and marked with symbols distinguishing them from such other goods, wares and merchandise.

(Code 1993, § 6-115; Code 2004, § 18-265; Code 2015, § 6-181)

Secs. 6-182—6-200. Reserved.

DIVISION 2. PERMIT

Sec. 6-201. Required; application.

No sale regulated by this article shall be conducted in the City unless the Chief of Police shall have issued a permit therefor. Every person proposing to conduct any such sale shall apply in writing to the Chief for such permit in form approved by the Chief. In such application, the applicant shall state under oath:

(1) The kind of sale to be conducted and its purpose;

(2) The place at which the sale is to be conducted;

(3) The name of the person who is to conduct the sale;

(4) The source from which the goods, wares and merchandise were obtained;

(5) The date on which the sale is to commence and the date on which it will terminate; and

(6) The total of the prices at which the goods, wares and merchandise will be offered for sale.

(Code 1993, § 6-116(a); Code 2004, § 18-286; Code 2015, § 6-201)

Sec. 6-202. Inventory.

There shall also be filed with the application for the permit required under this division and as a part thereof a complete and itemized inventory of the kind and quantities of the goods, wares and merchandise to be sold or offered for sale with a statement fully identifying the goods, wares and merchandise; stating the wholesale value of the goods to be offered for sale; and indicating how and in what manner such goods, wares and merchandise can be identified. Goods not included on the inventory of special sale goods shall not be commingled with or added to the special sale goods.

(Code 1993, § 6-116(b); Code 2004, § 18-287; Code 2015, § 6-202)

Sec. 6-203. False statements or representations.

It shall be unlawful for any person to make any false statement or representation as an inducement to obtain the permit required under this division. The Chief of Police shall not issue the permit if a false statement or representation has been made with respect thereto. If the permit has been issued on such basis it shall be revoked, and the Chief shall not thereafter issue a permit for the sale of such goods, wares and merchandise at a sale.

(Code 1993, § 6-116(c); Code 2004, § 18-288; Code 2015, § 6-203)

Sec. 6-204. Failure to obtain or display number in advertising.

It shall be unlawful for any person conducting a sale pursuant to this article or intending to conduct such sale to publish or advertise the sale in a newspaper, magazine, book, notice, handbill, poster, circular, pamphlet, letter, billboard, sign, radio or television broadcast or in any other manner before the permit required by this division has been issued or to fail to display in such publication or advertisement the permit number assigned and the effective dates of the sale as authorized in the permit.

(Code 1993, § 6-116(d); Code 2004, § 18-289; Code 2015, § 6-204)

Sec. 6-205. Identification of goods, wares and merchandise.

It shall be unlawful for any person to mark any other goods, wares and merchandise with the same symbol

used in identifying goods, wares and merchandise offered for sale at or during any sale for which a permit is issued pursuant to this division.

(Code 1993, § 6-116(e); Code 2004, § 18-290; Code 2015, § 6-205)

Sec. 6-206. Issuance; term; renewal.

(a) When the application for a permit required under this division has been filed, the Chief of Police, if satisfied that there has been compliance with this division in making such application, shall issue a permit for conducting the sale described in the application and for the purpose stated therein commencing on the date specified by the applicant and terminating on a day not exceeding 60 days from the date of the issuance of the permit.

(b) Should the purposes of the sale be not accomplished at the termination of the sale, the Chief shall extend the time for conducting the sale for a period not exceeding 60 days from the date of the extension upon the filing of another application therefor containing like statements under oath which shall contain a statement of the total of the prices at which the remaining goods, wares and merchandise will be offered for sale; a statement of the amount of gross sales of the goods, wares and merchandise during the period covered by the permit; and the inventory required by Section 6-202.

(c) A maximum of one additional permit beyond the initial 60-day permit shall be granted solely for the purpose of liquidating only those goods contained in the initial inventory list and which remain unsold.

(d) It shall be unlawful for any person to conduct such sale after the day for the termination of the permit has expired and before an extension of the time for the sale has been granted.

(Code 1993, § 6-117; Code 2004, § 18-291; Code 2015, § 6-206)

Sec. 6-207. Permit number and dates required in advertisements.

Any person who advertises a sale conducted pursuant to this article shall conspicuously include in the advertisement the permit number assigned by the Chief and the effective dates of the sale as authorized in the permit.

(Code 1993, § 6-117; Code 2004, § 18-292; Code 2015, § 6-207)

Sec. 6-208. Fee.

At the time an application for a permit required under this division is filed for the conduct of a sale, to aid in defraying the cost of administering and enforcing this article, there shall be paid to the City a fee of $65.00 and at the time an application is filed for extending the time for such sale a fee of $65.00. No permit shall be issued by the Chief of Police until the prescribed fee has been paid to the City, which shall not be refunded.

(Code 1993, § 6-117; Code 2004, § 18-293; Code 2015, § 6-208)

Secs. 6-209—6-239. Reserved.

ARTICLE VII. FOODS AND FOOD ESTABLISHMENTS*

***Charter reference—**Authority of City to regulate production, preparation, distribution and sale of beverages and foods, § 2.04(h).

Cross reference—Health, Ch. 15; license tax on mixed alcoholic beverage licensees, § 26-938; license tax on restaurants, § 26-938.

State law reference—Food and drink generally, Code of Virginia, § 3.2-5100 et seq.; dairy products, Code of Virginia, § 3.2-5200 et seq.; slaughterhouses, meat, and dressed poultry, Code of Virginia, § 3.2-5400 et seq.; authority regarding food, Code of Virginia, § 15.2-1109.

DIVISION 1. GENERALLY

Sec. 6-240. Bringing unwholesome or unsafe foods into City for sale.

No meats, fish, birds or fowl, fruit, vegetables or other commodity intended for human consumption, not being then healthy, fresh, sound, wholesome and safe for human food, nor any meat or fish that died by disease or accident shall be brought within the City, stored, offered or held for sale in any public or private market, store or other place, as such food, anywhere in the City.

(Code 1993, § 6-131; Code 2004, § 18-326; Code 2015, § 6-240)

Sec. 6-241. Exposing food for sale on street.

All meat, dressed poultry or fish, confectioneries, bread, pastry or other cooked food, and berries, vegetables, fruit or other articles which may be used as human food without cooking or peeling shall not be kept exposed for sale in any street or public place or outside of any shop or store or in the open window or doorway thereof, except under rules and regulations adopted and promulgated requiring the food to be kept covered or screened so that it shall be protected from dirt and flies.

(Code 1993, § 6-132; Code 2004, § 18-327; Code 2015, § 6-241)

Cross reference—Streets, sidewalk and public ways, Ch. 24.

Sec. 6-242. Placing food above street for display or storage.

No article which may be used as human food shall be stored, exposed or displayed on the surface of any street or floor of any market house, nor shall such article be placed in any doorway or in front of any place of business or in any other place accessible to dogs or other lower animals. All such articles of food shall be placed upon a table or otherwise properly supported so that it and the surface of its container or support shall be raised at least 24 inches above the street, sidewalk, platform or landing.

(Code 1993, § 6-133; Code 2004, § 18-328; Code 2015, § 6-242)

Cross reference—Streets, sidewalks and public ways, Ch. 24.

Sec. 6-243. Slaughterhouses, meat packing or processing plants or similar establishments.

(a) No person shall operate or maintain in the City any slaughterhouse, meat packing or processing plant or similar establishment in which cattle, sheep, swine or goats are slaughtered for sale as food for human consumption or in which meat or meat food products of or derived from any of such animals are canned, cooked, cured, smoked, salted, packed, rendered or otherwise prepared for sale as food for human consumption, unless such establishment has complied with the standards regarding the physical plant, equipment, sanitary facilities, operating practices and refuse disposal facilities applicable thereto and fixed by the United States Department of Agriculture or by the State Board of Agriculture and Consumer Services or by any other meat inspection service approved by the District Health Director.

(b) The District Health Director shall approve such other meat inspection service when its minimum sanitation standards are equivalent to those of the United States Department of Agriculture. Certification of any such establishment by any of such authorities shall constitute evidence that such establishment has complied with the required standards.

(Code 1993, § 6-134; Code 2004, § 18-329; Code 2015, § 6-243)

State law reference—Slaughterhouses, Code of Virginia, § 3.2-5406 et seq.

Sec. 6-244. Sale of meat or meat food products.

(a) No person shall sell, offer for sale or possess with intent to sell for human consumption any meat or meat food product of or derived from cattle, sheep, swine or goats unless such meat or meat food product has been slaughtered, handled, prepared and processed under sanitation standards established for its meat inspection service by the United States Department of Agriculture or by the State Board of Agriculture and Consumer Services or by any other meat inspection service approved by the District Health Director and the meat or meat food product or the package containing the meat or meat food product is marked with the official legend of inspection and approval of one of such meat inspection services.

(b) Section 6-243 and subsection (a) of this section shall not be applicable to a retail dealer in further handling, preparing or processing meat or meat food products for sale directly to the ultimate consumer, only, or to a person whose primary function is that of a meat market in which the grinding of hamburger and sausage is only incidental. However, this subsection shall apply only if the meat and meat food products so handled, prepared or processed by such retail dealer or ground by such meat market have been obtained from an establishment complying with Section 6-243 and are marked with the official legend of inspection and approval as provided by subsection (a) of this section and if such retail dealer or meat market has complied with all other State and local laws relating

to the preparation, handling and wholesomeness of food intended for human consumption.

(Code 1993, § 6-135; Code 2004, § 18-330; Code 2015, § 6-244)

State law reference—Food forbidden to be sold, Code of Virginia, § 3.2-5401.

Secs. 6-245—6-266. Reserved.

DIVISION 2. FOOD ESTABLISHMENTS*

***Cross reference—**Meals taxes, § 26-668 et seq.

State law reference—Restaurants, Code of Virginia, § 35.1-14; food and drink generally, Code of Virginia, § 3.2-5100 et seq.; dairy products, Code of Virginia, § 3.2-5200 et seq.; meat, Code of Virginia, § 3.2-5400 et seq.; authority regarding food, Code of Virginia, § 15.2-1109.

Subdivision I. In General

Sec. 6-267. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the District Health Director or duly authorized representative appointed to administer and enforce this division.

Employee means every person who handles food or drink during preparation or serving in a food establishment or who comes in contact with any eating or cooking utensils in a food establishment or who is employed at any time in a room in an establishment in which food or drink is prepared, served or manufactured.

Food includes all articles used by humans for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

Food establishment means any place in which articles of food or food products are manufactured, prepared, packed, processed, stored or sold, and includes hotels, inns, restaurants, schools and other cafeterias, hospital kitchens, lunch counters, bake shops, delicatessens, cheese factories, fruit stores, fruit stands, ice cream parlors, soda fountains, refreshment stands, confectioneries, pushcarts, mobile food units and similar places; and includes private property outside of and contiguous to a building or structure operated as a food establishment on which food or food products are served or sold for immediate consumption on such property, provided the food or food products are prepared or processed in the building or structure.

Itinerant restaurant means every place operated for a temporary period, not to exceed 14 days, as a food establishment in connection with a fair, carnival, circus, public exhibition or other single event or celebration.

Utensils means all kitchenware, tableware, glassware, cutlery, utensils, containers or other equipment or appliances with which food or drink comes in contact during the storage, preparation, serving or manufacture thereof.

(Code 1993, § 6-141; Code 2004, § 18-351; Code 2015, § 6-267)

Cross reference—Definitions generally, § 1-2.

Sec. 6-268. Manner of enforcement of division.

This division shall be enforced by the Director in a manner consistent with the interpretations of similar provisions as contained in the United States Public Health Service Code Regulating Eating and Drinking Establishments as promulgated. A certified copy of such code shall be at all times on file in the Office of the Director.

(Code 1993, § 6-153; Code 2004, § 18-352; Code 2015, § 6-268)

Sec. 6-269. Exemption of itinerant restaurants.

The Director may, upon ascertaining that the public health will not thereby be endangered, exempt from this division any person operating an itinerant restaurant which has complied with the rules and regulations made by the State Board of Agriculture and Consumer Services.

(Code 1993, § 6-142; Code 2004, § 18-353; Code 2015, § 6-269)

Secs. 6-270—6-286. Reserved.

Subdivision II. Permits

Sec. 6-287. Required; posting.

Every person who operates a food establishment in the City shall obtain a permit from the Director and shall post such permit in a conspicuous place in the food establishment. It shall be unlawful for any person to operate a food establishment in the City without having obtained and posted, as prescribed in this section, a permit from the Director.

(Code 1993, § 6-143; Code 2004, § 18-371; Code 2015, § 6-287)

Sec. 6-288. Issuance annually; entitlement to obtain license; transferability.

(a) Upon receipt of an application for a permit to operate a food establishment, the Director shall issue annually to each person operating a food establishment who complies with this division a permit, which permit shall entitle such person to obtain a license from the Director of Finance to engage in such business. The permit shall be for the current calendar year, and no license to operate the food establishment shall be issued until such permit shall have been obtained and exhibited with the application for the license.

(b) Permits issued under this division shall not be transferable from one person to another or from one location to another.

(Code 1993, § 6-144; Code 2004, § 18-372; Code 2015, § 6-288)

Sec. 6-289. Food permit fees, temporary food permit fees and plan review fees.

As and to the fullest extent permitted by general law, the Director shall assess a fee of $40.00 for each of the following:

(1) Food permits to operate a kitchen for restaurants, day care centers, nursing homes, tourist establishments and church kitchens;

(2) Temporary food permits for vendors and mobile food units;

(3) Plan reviews for new establishments or for major renovations to existing establishments; and

(4) Second plan reviews for new establishments or for major renovations, if necessary.

(Code 1993, § 6-144.1; Code 2004, § 18-373; Code 2015, § 6-289)

Sec. 6-290. Suspension or revocation.

Subject to Sections 6-317 and 6-318, the Director may suspend or revoke any permit issued to operate a food establishment as provided for in this division when any section of this article is being violated. Such suspension or revocation, however, shall not be effective until the person to whom the permit was issued shall have been notified in writing of such violation and of the intention to suspend or revoke such permit and has been given an opportunity to be heard with respect to such violation by the Director.

(Code 1993, § 6-145; Code 2004, § 18-374; Code 2015, § 6-290)

Sec. 6-291. Reinstatement after suspension or revocation.

Any person who desires to operate a food establishment, the permit for which has been suspended or revoked, may at any time make application for the reinstatement of such permit. Within one week after the receipt of an application to reinstate such permit, the Director shall make a reinspection of the food establishment and thereafter as many additional reinspections as may be necessary to ensure that such person is again complying with the requirements of this article. If compliance with this article is found, the Director shall reinstate the permit.

(Code 1993, § 6-146; Code 2004, § 18-375; Code 2015, § 6-291)

Secs. 6-292—6-315. Reserved.

Subdivision III. Examinations and Inspections

Sec. 6-316. Examination and condemnation of unwholesome or adulterated food or drink.

Samples of food and drink may be taken in any food establishment and examined by the Director as often as necessary for the detection of unwholesomeness or adulteration. The Director may condemn and forbid the sale of or cause to be removed or destroyed any food or drink which is found to be unwholesome or adulterated.

(Code 1993, § 6-147; Code 2004, § 18-391; Code 2015, § 6-316)

Sec. 6-317. Inspections.

At least once annually, the Director shall inspect every food establishment located within the City. If the Director discovers the violation of any section of this article, a second inspection shall be made after the lapse of such time as necessary for the violation to be remedied, and the second inspection shall govern in determining whether there is compliance with this article. The same violation of this article found on the second inspection may constitute grounds for the immediate suspension or revocation of the permit issued for the operation of such food establishment.

(Code 1993, § 6-148; Code 2004, § 18-392; Code 2015, § 6-317)

Sec. 6-318. Posting and filing of inspection reports.

One copy of the food establishment inspection report shall be posted by the Director upon an inside wall of the food establishment, and such inspection report shall not be defaced or removed by any person except the Director. Another copy of the inspection report shall be filed with the records of the District Health Department.

(Code 1993, § 6-149; Code 2004, § 18-393; Code 2015, § 6-318)

Secs. 6-319—6-339. Reserved.

*Subdivision IV. Sanitation**

***Cross reference**—Health, Ch. 15.

State law reference—Similar provisions, Code of Virginia, § 3.2-5105 et seq.

Sec. 6-340. Compliance.

All food establishments shall comply with the requirements in this subdivision.

(Code 1993, § 6-150; Code 2004, § 18-411; Code 2015, § 6-340)

Sec. 6-341. Lights, drains, plumbing, ventilation and general purity and wholesomeness.

Every room used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food or food products shall be properly lighted, drained, plumbed and ventilated, and conducted with due regard for the purity and wholesomeness of the food therein produced and with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks or other persons therein employed.

(Code 1993, § 6-150(1); Code 2004, § 18-412; Code 2015, § 6-341)

State law reference—Similar provisions, Code of Virginia, § 3.2-5106(A).

Sec. 6-342. Floors, walls, ceilings, furniture and implements.

The floors, sidewalls, ceilings, furniture, receptacles, implements and machinery of every food establishment shall at all times be kept in a clean, healthful and sanitary condition.

(Code 1993, § 6-150(2); Code 2004, § 18-413; Code 2015, § 6-342)

State law reference—Similar provisions, Code of Virginia, § 3.2-5106(B).

Sec. 6-343. Protection from flies, dust and dirt and contamination.

Food in the process of manufacture, preparation, packing, storing, sale or distribution must be securely protected from flies, dust, dirt and, as far as may be necessary, from all other foreign or injurious contamination.

(Code 1993, § 6-150(3); Code 2004, § 18-414; Code 2015, § 6-343)

State law reference—Similar provisions, Code of Virginia, § 3.2-5111.

Sec. 6-344. Matter subject to decomposition and fermentation.

All refuse, dirt and the waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling and distributing of food must be removed from the premises daily.

(Code 1993, § 6-150(4); Code 2004, § 18-415; Code 2015, § 6-344)

State law reference—Similar provisions, Code of Virginia, § 3.2-5106(C).

Sec. 6-345. Cleaning of instruments and machinery.

All trucks, trays, boxes, baskets, buckets, and other receptacles, chutes, platforms, racks, tables, shelves and all knives, saws, cleavers and other utensils and machinery used in moving, handling, cutting, chopping, mixing, canning and all other processes in a food establishment must be thoroughly cleaned as often as deemed necessary by the Director.

(Code 1993, § 6-150(5); Code 2004, § 18-416; Code 2015, § 6-345)

State law reference—Similar provisions, Code of Virginia, § 3.2-5110.

Sec. 6-346. Clothing of employees.

The clothing of operatives, employees, clerks, or other persons in a food establishment must be clean.

(Code 1993, § 6-150(6); Code 2004, § 18-417; Code 2015, § 6-346)

State law reference—Similar provisions, Code of Virginia, § 3.2-5112.

Sec. 6-347. Materials used for walls and ceilings.

The walls and ceilings of every food establishment shall be constructed of a light-colored, smooth, nonabsorbent, nontoxic and easily cleanable material.

(Code 1993, § 6-150(7); Code 2004, § 18-418; Code 2015, § 6-347)

Sec. 6-348. Cleaning of interior walls and floors.

All interior walls and floors of a food establishment shall be kept clean. Only dustless methods of cleaning shall be used.

(Code 1993, § 6-150(8); Code 2004, § 18-419; Code 2015, § 6-348)

Sec. 6-349. Floors.

Every room in a food establishment shall have an impermeable floor made of cement or tile, laid in cement or other suitable nonabsorbent material which can be flushed and washed clean with water.

(Code 1993, § 6-150(9); Code 2004, § 18-420; Code 2015, § 6-349)

State law reference—Similar provisions, Code of Virginia, § 3.2-5107(B).

Sec. 6-350. Living or sleeping areas.

Food service operations in a food establishment shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

(Code 1993, § 6-150(10); Code 2004, § 18-421; Code 2015, § 6-350)

State law reference—Similar provisions, Code of Virginia, § 3.2-5108.

Sec. 6-351. Domestic animals.

No domestic animals shall be permitted to remain in any room of a food establishment used for the manufacture or storage of food products.

(Code 1993, § 6-150(11); Code 2004, § 18-422; Code 2015, § 6-351)

Cross reference—Animals, Ch. 4.

State law reference—Similar provisions, Code of Virginia, § 3.2-5115.

Sec. 6-352. Employees with contagious or infectious disease.

No employer shall knowingly permit or require any person to work in any place where food is manufactured, produced, prepared, processed, packed, or exposed, who is afflicted with any contagious or infectious disease, or with any skin disease.

(Code 1993, § 6-150(12); Code 2004, § 18-423; Code 2015, § 6-352)

State law reference—Similar provisions, Code of Virginia, § 3.2-5113.

Sec. 6-353. Tobacco use.

Employees in a food establishment shall not use tobacco in any form while engaged in food preparation or service nor while in areas used for food preparation or utensil washing.

(Code 1993, § 6-150(13); Code 2004, § 18-424; Code 2015, § 6-353)

State law reference—Similar provisions, Code of Virginia, § 3.2-5114.

Sec. 6-354. Washrooms and toilets.

Every place in which human foods are manufactured, prepared, exposed or offered for sale shall be provided with a convenient washroom and toilet of sanitary construction, but such toilet shall be entirely separate and apart from any room used for the manufacture or storage of food products.

(Code 1993, § 6-150(14); Code 2004, § 18-425; Code 2015, § 6-354)

State law reference—Similar provisions, Code of Virginia, § 3.2-5109.

Sec. 6-355. Sterilization of bottles and containers.

All bottles, jugs, cans, barrels and containers used in the packing, bottling, storage, distribution and sale of nonalcoholic beverage and drink products must be sterilized before using by one of the following methods:

(1) Sterilization with boiling water or live steam.

(2) Soaking in a hot caustic solution that shall contain not less than three percent alkali, of which not less than 60 percent is caustic, or its equivalent in cleansing or germicidal effectiveness as such solutions are commonly used in the soaker-type washing and sterilizing equipment.

(3) Such other equally efficient methods as are approved pursuant to Code of Virginia, § 3.2-5118.

(Code 1993, § 6-150(15); Code 2004, § 18-426; Code 2015, § 6-355)

State law reference—Similar provisions, Code of Virginia, § 3.2-5118.

Sec. 6-356. Food forbidden to be sold.

It shall be unlawful for any person to sell or to offer or expose for sale for human consumption in a food establishment any article which has been prepared, handled or kept where the sanitary conditions are such that the article is rendered unhealthy, unwholesome, deleterious, or otherwise unfit for human food or which consists in whole or in part of diseased, filthy, decomposed or putrid animal or vegetable matter.

(Code 1993, § 6-150(16); Code 2004, § 18-427; Code 2015, § 6-356)

Secs. 6-357—6-385. Reserved.

Subdivision V. Employee Health

Sec. 6-386. Notification of existence of disease to person in charge; reports to Director.

Any person employed in a food establishment who contracts any infectious, contagious or communicable disease or who has a fever, a skin eruption, a cough lasting for more than three weeks, or any other symptom of disease shall give immediate notice thereof to the person in charge of the food establishment. Upon such notification or upon becoming aware that a person so employed has any such disease or symptom, the person in charge of the food establishment shall immediately report the case to the Director. Any person who fails to give the notice or fails to make the report required by this section shall be punishable as provided in Section 1-16.

(Code 1993, § 6-151; Code 2004, § 18-446; Code 2015, § 6-386)

Sec. 6-387. Procedure when infection suspected.

When reasonable grounds exist for suspecting that any person employed in a food establishment may transmit infection, the Director may require any one or all of the following:

(1) The immediate exclusion of the person from further employment in the food establishment.

(2) Immediate closing of the food establishment where the person was employed until, in the opinion of the Director, the need for such closing ceases to exist.

(3) Adequate medical and bacteriological examination of the person and others employed in the food establishment to ascertain whether or not conditions exist constituting a menace to public health.

(Code 1993, § 6-152; Code 2004, § 18-447; Code 2015, § 6-387)

Secs. 6-388—6-417. Reserved.

ARTICLE VIII. PEDDLERS*

***Cross reference—**Streets, sidewalks and public ways, Ch. 24.

State law reference—Authority to regulate peddlers, Code of Virginia, § 15.2-913; home solicitation sales, Code of Virginia, § 59.1-21.1 et seq.; itinerant merchants, Code of Virginia, § 54.1-4300 et seq.

Sec. 6-418. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peddle and *peddling* mean and include the act of carrying from place to place any goods, wares or merchandise in a vehicle and offering to sell or barter the goods, wares or merchandise or actually selling or bartering such goods, wares or merchandise.

Peddler means and includes, but is not limited to, any person who carries from place to place any goods, wares or merchandise in a vehicle and offers to sell or barter the goods, wares or merchandise or who actually sells or barters the goods, wares or merchandise, whether outdoors on private property or on a sidewalk, as defined in Section 6-453, and includes, but is not limited to, each peddler who is required to pay a license tax under Chapter 26. The term "peddler" does not include the following:

(1) A farmer who peddles farm products grown or produced by such farmer and not purchased by such farmer for sale in the City market areas defined in Chapter 8; and

(2) A merchant who sells and delivers goods, wares or merchandise at the same time to dealers or retailers, institutions or commercial or industrial establishments and not to consumers.

Street means and includes every street, road, alley or other public way or place open to the use of the public for purposes of vehicular travel.

Vehicle means and includes every device in, upon or by which any goods, wares or merchandise are transported or drawn upon a street by a peddler.

(Code 1993, § 6-171; Code 2004, § 18-481; Code 2015, § 6-418)

Cross reference—Definitions generally, § 1-2.

Sec. 6-419. Parking generally.

It shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place in a street for the purpose of peddling any longer than is necessary to conclude a sale of any goods, wares or merchandise or a continuous, uninterrupted series of sales thereof; and it shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place in a street between two intersecting streets more than 30 minutes in any day for the purpose of peddling.

(Code 1993, § 6-172; Code 2004, § 18-482; Code 2015, § 6-419)

Sec. 6-420. Peddling on streets where parking meters installed.

It shall be unlawful for a peddler to peddle any goods, wares or merchandise in any place in a street between intersecting streets where one or more parking meters have been installed on both sides or either side of the street between the intersecting streets.

(Code 1993, § 6-173; Code 2004, § 18-483; Code 2015, § 6-420)

Sec. 6-421. Peddling near schools.

It shall be unlawful for a peddler to peddle any goods, wares or merchandise to children of legal school age at or within 300 feet of a building used for school purposes during the hours the building is open for purposes of instruction.

(Code 1993, § 6-174; Code 2004, § 18-484; Code 2015, § 6-421)

Sec. 6-422. Making noise near certain buildings.

It shall be unlawful for a peddler to cry goods, wares or merchandise within 300 feet of any hospital, building used for school purposes, or building used for religious worship when services are being conducted therein.

(Code 1993, § 6-175; Code 2004, § 18-485; Code 2015, § 6-422)

Sec. 6-423. Business hours.

It shall be unlawful for a peddler to peddle, except between the hours of 7:00 a.m. and 11:30 p.m.

(Code 1993, § 6-176; Code 2004, § 18-486; Code 2015, § 6-423)

Sec. 6-424. Obstructing streets.

It shall be unlawful for a peddler to park, stand or stop or allow a vehicle to remain upon a street so as to obstruct other persons in the reasonable use of the street.

(Code 1993, § 6-177; Code 2004, § 18-487; Code 2015, § 6-424)

Sec. 6-425. Going beyond portion of street between certain intersecting streets.

It shall be unlawful for a peddler to go beyond that portion of the street between intersecting streets on which the vehicle from which the peddler is peddling is located for the purpose of crying or offering for sale or actually selling any goods, wares or merchandise.

(Code 1993, § 6-178; Code 2004, § 18-488; Code 2015, § 6-425)

Sec. 6-426. Identification of vehicles.

It shall be unlawful for a peddler to use any vehicle for peddling unless the peddler's name, street address and post office address are plainly displayed thereon.

(Code 1993, § 6-179; Code 2004, § 18-489; Code 2015, § 6-426)

Sec. 6-427. Effect of article on other regulations.

Nothing contained in this article shall be construed to authorize the evasion or violation of the provisions of any law, section of this Code, ordinance or rule or regulation promulgated pursuant thereto controlling, regulating or governing the use of streets by pedestrians and vehicles.

(Code 1993, § 6-180; Code 2004, § 18-490; Code 2015, § 6-427)

Secs. 6-428—6-452. Reserved.

ARTICLE IX. SIDEWALK VENDORS*

***Cross reference—**Use of streets or sidewalks by vendors, § 8-435; streets, sidewalks and public ways, Ch. 24.

DIVISION 1. GENERALLY

Sec. 6-453. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Central Business District means that area of the City bounded by Belvidere Street, the Richmond-Petersburg Turnpike and the James River.

Flea market means a temporary commercial market held in a structure or open area where one or more persons are involved in the setting up of tables, platforms, racks, or similar display areas for the purpose of selling, buying, or exchanging merchandise, goods, wares, products, or other such items. This definition shall not be construed to include sidewalk sales by retail merchants; fruit or produce stands; bake sales; garage sales, yard sales, or estate sales held in conjunction with residential uses; or sponsored activities conducted by religious, civic, charitable or other nonprofit organizations conducted not more than four times during the calendar year.

Public sidewalk means the improved portion of a public street located between the outer edge of the travel lane or parking lane, as delineated by a curb or edge of pavement, and the outer boundary of the street right-of-way. The improvement shall consist of concrete, brick or other impervious surface.

Vendor means any person engaged in the selling or offering for sale of food, beverage or merchandise on public sidewalks within the City.

(Code 1993, § 6-191; Code 2004, § 18-521; Code 2015, § 6-453)

Cross reference—Definitions generally, § 1-2.

Sec. 6-454. Enforcement.

(a) This article shall be enforced by the Department of Finance. Any person convicted of a violation of any provision of Section 6-456 or Division 2 of this article shall, upon conviction, be guilty of a Class 1 misdemeanor and punished accordingly. Each day any violation of this article shall continue shall constitute a separate offense.

(b) Upon a vendor's second conviction within a 12-month period, the Director of Finance shall notify the vendor that the vendor's badge is revoked. The vendor may schedule a hearing on the revocation with the Director of Finance. If the Director of Finance determines that the vendor has been convicted of two violations within a 12-month period, the revocation shall remain effective. An individual whose badge is revoked shall not vend on City sidewalks for two years from the date of the second conviction.

(Code 1993, § 6-198; Code 2004, § 18-522; Code 2015, § 6-454)

Sec. 6-455. Exceptions.

This article shall not apply to the following:

(1) Special events or festivals for which a permit has been issued by the Chief of Police or the Director of Parks, Recreation and Community Facilities.

(2) The sale of newspapers from vending machines.

(3) Sales in the City market area as provided in Chapter 8.

(4) Sales in public parks pursuant to a valid concession agreement.

(Code 1993, § 6-197; Code 2004, § 18-523; Code 2015, § 6-455)

Sec. 6-456. Vending in City outside of Central Business District.

(a) It shall be lawful to sell or offer for sale food, beverage or merchandise on sidewalks in the City outside the Central Business District, subject to the regulations in subsection (b) of this section.

(b) No vendor shall do any of the following:

(1) Vend within 100 feet of the grounds of any elementary or secondary school.

(2) Vend on the sidewalks within public parks.

(3) Vend within 15 feet of any entranceway to or exitway from any building.

(4) Vend within five feet of any driveway or intersection of an alley with a street.

(5) Vend within five feet of the crosswalk at any intersection.

(6) Vend within any bus, taxicab or other passenger or commercial loading zone.

(7) Vend within ten feet of any fire hydrant.

(8) Vend within five feet of any fire escape.

(9) Vend between 12:00 midnight and 6:00 a.m.

(10) Sell food or beverages for immediate consumption unless there is available for public use the vendor's own or a public litter receptacle.

(11) Leave any location without first picking up, removing and disposing of all trash or refuse attributable to the vendor's activities.

(12) Solicit or conduct business with persons in a motor vehicle while the vehicle is in a lane of traffic on a public street.

(13) Use any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public.

(14) Vend without first obtaining any required business license from the Department of Finance and a permit from the District Health Department.

(15) Vend without conspicuously displaying any business license and health permit required by the City and the District Health Department.

(16) Vend without possessing on such vendor's person a valid photographic identification issued by the Commonwealth of Virginia or another state.

(17) Vend without having in force an insurance policy, issued by an insurance company licensed to do business in the Commonwealth, protecting the vendor and the City from all claims for damages to property and bodily injury, including death, which may arise from operation of the vending business in the City. Such insurance shall name the City as an additional insured and shall provide that the policy shall not terminate or be canceled without 30 days' advance written notice to the City. Limits of liability shall be a minimum of $300,000.00.

(18) Vend from a stand, cart or area which exceeds four feet in width perpendicular to the street, nine feet in length parallel to the street or eight feet in height.

(Code 1993, § 6-196; Code 2004, § 18-524; Code 2015, § 6-456; Ord. No. 2008-90-70, § 1, 4-14-2008)

Secs. 6-457—6-480. Reserved.

DIVISION 2. VENDING IN CENTRAL BUSINESS DISTRICT

Sec. 6-481. Prohibited without permit.

It shall be unlawful to sell or offer for sale any food, beverage or merchandise on any sidewalk within the Central Business District without obtaining a permit pursuant to Section 6-482.

(Code 1993, § 6-192; Code 2004, § 18-546; Code 2015, § 6-481)

Sec. 6-482. Application for vendor's permit.

A person holding a valid license to do business as a peddler or itinerant merchant in the City may apply to the City for a vendor's permit to be authorized to vend at a specific location on a sidewalk in the Central Business District. A vendor's permit shall be valid for up to one year from the date of issuance and shall expire on December 31 of the year of issuance. Upon application for a vendor's permit, the Department of Finance shall investigate to determine whether the requested location meets the criteria of this section. No person shall be issued a permit for more than one vending location per block face. In addition, no location shall be:

(1) Within 100 feet of the grounds of any elementary or secondary school.

(2) On a sidewalk that is less than ten feet in width.

(3) More than five feet or less than one foot from the curbline of any street.

(4) Within 15 feet of any entranceway to or exitway from any building or within 50 feet of any entranceway,

exitway or driveway to the emergency room of any hospital.

(5) Within five feet of any driveway or intersection of any alley with a street.

(6) Within five feet of the crosswalk at any intersection.

(7) Within any bus, taxicab or other passenger or commercial loading zone.

(8) Within ten feet of any fire hydrant.

(9) Within five feet of any fire escape.

(10) Within 25 feet of any other location for which a permit has been issued.

(11) On a block face that already contains three locations designated for vending; provided, however, a larger number of vending locations may be designated for the sidewalks surrounding and adjacent to the Richmond Coliseum and Festival Park.

(12) Situated so that the vending operation will deny reasonable access to or use of any trash receptacle, mailbox, parking meter or other public facility on the sidewalk.

(13) On the sidewalks within public parks.

(14) Operated between 11:31 p.m. and 6:59 a.m.

(15) Used to sell food or beverages for immediate consumption unless there is available for public use the vendor's own litter receptacle which must be approved by the Urban Design Committee pursuant to Section 30-940.3(d).

(Code 1993, § 6-193; Code 2004, § 18-547; Code 2015, § 6-482)

Sec. 6-483. Issuance of vendor's permit.

(a) Not later than 30 days after the filing of an application for a vendor's permit pursuant to this division, the applicant shall be notified as to the decision on the issuance of the permit. All vendor's permits shall be issued according to the time and date of receipt of the application for any available location. A location shall be considered available only if it has been designated by the Department of Finance as a vending location and there is no permit issued for the location, if the holder of a permit for a location in writing releases the location, or if a permit for a location is not renewed in the 30-day period after the permit expires. For those block faces requiring a reduction in vending locations as a result of the adoption of Ordinance No. 93-309-306, the Department of Finance shall make assignments to the remaining vending locations based upon the seniority of each permit holder on the block face. Each available location shall be assigned to the first vendor who applies for that location; provided, however, that any vendor who is displaced from a vending location held as of November 22, 1993, shall be assigned to an available vending location nearest the displaced location. If more than one displaced vendor qualifies for the same available vending location, the permit shall be awarded to the vendor who was first licensed to vend in the City. If the permit is denied, the applicant shall be provided with a written statement as to the reasons for denial.

(b) Should a tin issued to a vendor be lost or stolen during the license year for which it is valid, the vendor must obtain a replacement tin. The replacement tin will be issued at a cost of $25.00 each.

(Code 1993, § 6-194; Code 2004, § 18-548; Code 2015, § 6-483)

Sec. 6-484. Design of vending stands.

(a) Any person vending from a table in the Central Business District shall use a table which measures 2 1/2 feet by six feet and shall use a table drape approved by the Urban Design Committee pursuant to Section 30-940.3(d).

(b) Any person desiring to use an umbrella or canopy on a merchandise vending stand shall use one of the specified umbrellas or canopies from suppliers approved by the Urban Design Committee.

(Code 1993, § 6-194.1; Code 2004, § 18-549; Code 2015, § 6-484)

Sec. 6-485. General regulations.

In the Central Business District, no vendor shall:

(1) Leave any stand or cart unattended for longer than 15 minutes.

(2) Store, park or leave unattended any stand or cart between 12:00 midnight and 6:00 a.m. on any sidewalk.

(3) Sell food or beverages for immediate consumption unless there is available for public use the vendor's own or a public litter receptacle.

(4) Leave any location without first picking up, removing and disposing of all trash or refuse attributable to the vendor's activities.

(5) Allow any items relating to the operation of the vending business to be placed anywhere outside the permissible vending area.

(6) Solicit or conduct business with persons in a motor vehicle while the vehicle is in a lane of traffic on a public street.

(7) Use any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public.

(8) Vend from a stand, cart or area which exceeds four feet in width perpendicular to the street, nine feet in length parallel to the street or eight feet in height.

(9) Vend without first obtaining any required vendor's permit, tin, and business license from the Department of Finance and permit from the District Health Department.

(10) Vend without conspicuously displaying any vendor's permit, tin business license and health permit required by the City and the District Health Department.

(11) Vend without possessing on such vendor's person a valid photographic identification issued by the Commonwealth of Virginia or another state.

(12) Vend without having in force an insurance policy, issued by an insurance company licensed to do business in the State, protecting the vendor and the City from all claims for damages to property and bodily injury, including death, which may arise from operation of the vending business in the City. Such insurance shall name the City as an additional insured and shall provide that the policy shall not terminate or be canceled without 30 days' advance written notice to the City. Limits of liability shall be a minimum of $300,000.00.

(Code 1993, § 6-195; Code 2004, § 18-550; Code 2015, § 6-485; Ord. No. 2008-90-70, § 1, 4-14-2008)

Secs. 6-486—6-508. Reserved.

ARTICLE X. ARTS AND CULTURAL DISTRICTS*

***State law reference—**Arts and cultural districts, Code of Virginia, § 15.2-943.1.

DIVISION 1. GENERALLY

Sec. 6-509. Application.

This article creates an Arts and Cultural District in the City pursuant to Code of Virginia, § 15.2-943.1.

(Code 2004, § 18-601; Code 2015, § 6-509; Ord. No. 2012-83-75, § 1, 5-29-2012)

Sec. 6-510. Meaning of boundaries of district generally.

Unless expressly provided otherwise, when the boundaries of a district are described by reference to particular streets, such boundaries shall be presumed to follow the centerlines of the streets identified, and the properties on the side of such streets outside the boundary area shall be presumed to lie outside of the district.

(Code 2004, § 18-602; Code 2015, § 6-510; Ord. No. 2012-83-75, § 1, 5-29-2012)

Sec. 6-511. Meaning of "venue."

The term "venue" means those establishments located within the Arts and Cultural District that provide arts and cultural activities to the public and include, but are not limited to, theaters, art galleries, museums, dance studios, music halls and historic sites.

(Code 2004, § 18-603; Code 2015, § 6-511; Ord. No. 2012-83-75, § 1, 5-29-2012)

Sec. 6-512. Meaning of "street frontage."

The term "street frontage" means that portion of a lot abutting a street and situated between lot lines intersecting such street.

(Code 2004, § 18-604; Code 2015, § 6-512; Ord. No. 2012-83-75, § 1, 5-29-2012)

Secs. 6-513—6-532. Reserved.

DIVISION 2. ESTABLISHMENT OF DISTRICT

Sec. 6-533. Arts and Cultural District established.

There is hereby established an Arts and Cultural District. The boundaries of the Arts and Cultural District shall be as follows: beginning at the intersection of West Franklin Street and North Belvidere Street, then proceeding north along North Belvidere Street to its intersection with West Grace Street, then proceeding west on West Grace Street to its intersection with North Pine Street, then proceeding north along North Pine Street to its intersection with West Broad Street, then proceeding east upon West Broad Street to its intersection with North Belvidere Street, then proceeding north along North Belvidere Street to its intersection with West Marshall Street, then proceeding east along West Marshall Street to its intersection with North Madison Street, then proceeding north along North Madison Street to its intersection with Brook Road, then proceeding north along Brook Road to its intersection with West Leigh Street, then proceeding east along West Leigh Street to its intersection with St. Peter Street, then proceeding north along St. Peter Street to its intersection with Chamberlayne Parkway, then proceeding south along Chamberlayne Parkway to its intersection with North Adams Street, then proceeding south along North Adams Street to its intersection with West Clay Street, then proceeding east along West Clay Street to its intersection with East Clay Street at St. James Street, then proceeding east along East Clay Street to its intersection with North 1st Street, then proceeding north along North 1st Street to its intersection with East Jackson Street, then proceeding east along East Jackson Street to its intersection with North 2nd Street, then proceeding south along North 2nd Street to its intersection with East Leigh Street, then proceeding east along East Leigh Street to its intersection with North 13th Street, then proceeding south along North 13th Street to its intersection with East Marshall Street, then proceeding west along East Marshall Street to its intersection with North 12th Street, then proceeding south along North 12th Street to its intersection with Governor Street at East Grace Street, then proceeding south along Governor Street to its intersection with Bank Street, then proceeding west along Bank Street to its intersection with North 9th Street, then proceeding north along North 9th Street to its intersection with East Franklin Street, then proceeding west along East Franklin Street to its intersection with North 5th Street, then proceeding south along North 5th Street to its intersection with South 5th Street at East Main Street, then proceeding south along South 5th Street to its intersection with East Byrd Street, then proceeding west along East Byrd Street to its intersection with South 4th Street, then proceeding north along South 4th Street to its intersection with North 4th Street at East Main Street, then proceeding north along North 4th Street to its intersection with East Franklin Street, then proceeding west along East Franklin Street to its intersection with North 2nd Street, then proceeding south along North 2nd Street to its intersection with East Main Street, then proceeding west along East Main Street to its intersection with North 1st Street, then proceeding north along North 1st Street to its intersection with East Franklin Street, then proceeding west along East Franklin Street to its intersection with West Franklin Street at North Foushee Street, then proceeding west along West Franklin Street to its intersection with North Belvidere Street, the point of beginning.

(Code 2004, § 18-621; Code 2015, § 6-533; Ord. No. 2012-83-75, § 1, 5-29-2012)

Secs. 6-534—6-559. Reserved.

DIVISION 3. INCENTIVES

Sec. 6-560. District-wide incentives.

The following incentives shall be available to venues located within the Arts and Cultural District:

(1) Venues located in the Arts and Culture District shall be eligible to receive a rebate of certain fees associated with the Citywide revolving loan program administered through the Economic Development Authority of the City of Richmond, pursuant to the terms and conditions of the program and the

provisions of the Cooperation Agreement between the City of Richmond and the Economic Development Authority of the City of Richmond pertaining to the program.

(2) Subject to annual appropriations for such purpose, the City will support the promotion, marketing and branding of the Arts and Cultural District.

(3) Owners or operators of venues will be eligible for assistance to support residential development, redevelopment or rehabilitation of space attached to the venue for occupancy by the owner or operator of the venue.

(Code 2004, § 18-641; Code 2015, § 6-560; Ord. No. 2012-83-75, § 1, 5-29-2012)

Sec. 6-561. Targeted incentives.

(a) Certain tax and regulatory incentives shall be available in the following portions of the Arts and Cultural District:

(1) That portion of the Arts and Cultural District beginning at the intersection of West Grace Street and North Belvidere Street, then proceeding north along North Belvidere Street to its intersection with West Marshall Street, then proceeding east along West Marshall Street to its intersection with North 1st Street, then proceeding east along East Marshall Street to its intersection with North 3rd Street, then proceeding south along North 3rd Street to its intersection with East Broad Street, then proceeding east along East Broad Street to its intersection with North 7th Street, then proceeding south along North 7th Street to its intersection with East Franklin Street, then proceeding west along East Franklin Street to its intersection with North 6th Street, then proceeding north along North 6th Street to its intersection with East Grace Street, then proceeding west along East Grace Street to its intersection with West Grace Street at North Foushee Street, then proceeding west along West Grace Street to its intersection with North Belvidere Street, the point of beginning.

(2) That portion of the Arts and Cultural District consisting of those parcels of land having street frontage on North 2nd Street between East Leigh Street and East Marshall Street.

(3) That portion of the Arts and Cultural District consisting of those parcels of land having street frontage on the north side of East Broad Street between North 3rd Street and North 4th Street.

(4) That portion of the Arts and Cultural District consisting of those parcels of land having street frontage on East and West Grace Street, beginning at the intersection of East Grace Street with North 6th Street, then proceeding west along East Grace Street to its intersection with West Grace Street at North Foushee Street, then proceeding west along West Grace Street to its intersection with North Belvidere Street.

(b) The tax and regulatory incentives available within the portions of the Arts and Cultural District described in this section shall be as follows, for a period of five years commencing July 1, 2012, and ending June 30, 2017:

(1) Notwithstanding the provisions of Section 24-111, a rebate of the encroachment application and processing fee required by that section for administrative approval encroachment applications and for Council approval encroachment requests upon approval of the application or request.

(2) A rebate of the fees charged for "Building Permits - Residential" and "Building Permits - Commercial" pursuant to Section 5-5 as follows:

a. For total construction cost of $1,650,000.00 or less, the applicant shall be eligible to receive a rebate of the locality's share of the building permit fee.

b. For total construction cost of more than $1,650,000.00, the applicant shall be eligible to receive a rebate of the locality's portion of the building permit fee in the amount of $10,000.00 or 30 percent of the building permit application fee, whichever is greater, provided that in no event shall the rebate exceed $50,000.00.

c. The applicant shall be eligible to receive the rebate of the building permit application fee upon completion of the construction for which the permit was issued.

d. An applicant shall be eligible to receive no more than $50,000.00 in rebates of building permit application fees within a 36-month period.

(3) An expedited review of building permit applications, with completion of review within ten business days, provided the application is complete upon submittal. However, the ten business day period shall be extended by the time an applicant takes to respond to plan review comments or to comply with any instructions from the City necessary to properly act upon the application.

(4) A waiver of those fees charged pursuant to Section 30-1160(a).

(Code 2004, § 18-642; Code 2015, § 6-561; Ord. No. 2012-83-75, § 1, 5-29-2012)

Secs. 6-562—6-580. Reserved.

ARTICLE XI. TOURISM ZONES*

***State law reference—**Creation of local tourism zones, Code of Virginia, § 58.1-3851.

DIVISION 1. GENERALLY

Sec. 6-581. Application.

This article creates and provides for tourism zones in the City pursuant to Code of Virginia, § 58.1-3851.

(Code 2015, § 6-581; Ord. No. 2016-144, § 1, 6-27-2016)

Sec. 6-582. Meaning of zone boundaries generally.

Unless expressly provided otherwise, when the boundaries of a tourism zone are described by reference to particular streets, such boundaries shall be presumed to follow the centerlines of the streets identified, and the properties on the side of such streets outside the boundary area shall be presumed to lie outside of the tourism zone.

(Code 2015, § 6-582; Ord. No. 2016-144, § 1, 6-27-2016)

Secs. 6-583—6-592. Reserved.

DIVISION 2. ESTABLISHMENT OF ZONES

Sec. 6-593. Downtown-East End Tourism Zone.

There is hereby established a Downtown-East End Tourism Zone. The boundaries of the Downtown-East End Tourism Zone shall be as follows: beginning at the intersection of North Belvidere Street with Interstate 95/64, then proceeding along North Belvidere Street to its intersection with South Belvidere Street at West Main Street, then proceeding along South Belvidere Street to its intersection with the north bank of the James River, then proceeding from the intersection of South Belvidere Street with the north bank of the James River to the intersection of the north bank of the James River with Interstate 95 along such a line as to include within the zone all islands in the James River between South Belvidere Street and Interstate 95, then proceeding along the north bank of the James River to its intersection with Orleans Street, then proceeding along Orleans Street to its intersection with Williamsburg Avenue, then proceeding along Williamsburg Avenue to its intersection with Hatcher Street, then proceeding along Hatcher Street to its intersection with Potomac Street, then proceeding along Potomac Street to its intersection with Northampton Street, then proceeding along Northampton Street to its intersection with Montebello Circle, then proceeding along Montebello Circle to its intersection with Williamsburg Road, then proceeding along Williamsburg Road to its intersection with Williamsburg Avenue, then proceeding along Williamsburg Avenue to its intersection with Stony Run Road, then proceeding along Stony Run Road to its intersection with Government Road, then proceeding along Government Road to its intersection with North 36th Street, then proceeding along North 36th Street to its intersection with East Marshall Street, then proceeding along East Marshall Street to its intersection with North 31st Street, then proceeding along North 31st Street to its intersection with Q Street, then proceeding along Q Street to its intersection with Venable Street at North 25th Street, then proceeding along Venable Street to its intersection with Mosby Street, then proceeding along Mosby Street to its intersection with the Leigh Street Viaduct, then proceeding along the Leigh Street Viaduct to its intersection with Interstate 95, then proceeding along Interstate 95 and Interstate 95/64 to its intersection with North Belvidere Street, the point of beginning.

(Code 2015, § 6-591; Ord. No. 2016-144, § 1, 6-27-2016)

Sec. 6-594. Fan-Boulevard-Carytown Tourism Zone.

There is hereby established a Fan-Boulevard-Carytown Tourism Zone. The boundaries of the Fan-Boulevard-Carytown Tourism Zone shall be as follows: beginning at the intersection of West Broad Street with North Thompson Street, then proceeding along North Thompson Street to its intersection with South Thompson Street at Ellwood Avenue, then proceeding along South Thompson Street to its intersection with West Cary Street, then proceeding along West Cary Street to its intersection with McCloy Street, then proceeding along McCloy Street to its intersection with Idlewood Avenue, then proceeding along Idlewood Avenue to its intersection with South Robinson Street, then proceeding along South Robinson Street to its intersection with Grayland Avenue, then proceeding along Grayland Avenue to its intersection with South Stafford Avenue, then proceeding along South Stafford Avenue to its intersection with Parkwood Avenue, then proceeding along Parkwood Avenue to its intersection with South Meadow Street, then proceeding along South Meadow Street to its intersection with West Cary Street, then proceeding along West Cary Street to its intersection with South Belvidere Street, then proceeding along South Belvidere Street to its intersection with North Belvidere Street at West Main Street, then proceeding along North Belvidere Street to its intersection with Interstate 95/64, then proceeding along Interstate 95/64 to its intersection with West Moore Street, then proceeding along West Moore Street to its intersection with North Lombardy Street, then proceeding along North Lombardy Street to its intersection with West Broad Street, then proceeding along West Broad Street to its intersection with North Thompson Street, the point of beginning.

(Code 2015, § 6-592; Ord. No. 2016-144, § 1, 6-27-2016)

Sec. 6-595. Manchester Tourism Zone.

There is hereby established a Manchester Tourism Zone. The boundaries of the Manchester Tourism Zone shall be as follows: beginning at the intersection of Maury Street and East Commerce Road, then proceeding along East Commerce Road to its intersection with Hull Street, then proceeding along Hull Street to its intersection with Cowardin Avenue, then proceeding along Cowardin Avenue to its intersection with Norfolk Southern Railway Co. railroad tracks along the James River, then proceeding along such Norfolk Southern Railway Co. railroad tracks to their intersection with West Commerce Road, then proceeding northerly along West Commerce Road until it reaches the south bank of the James River, then proceeding along the south bank of the James River from its intersection with West Commerce Road to its intersection with the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0191/011, then proceeding along the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0191/011 to its intersection with the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0191/011, then proceeding along the western property line of the properties identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0191/011 and Tax Parcel No. S007-0191/007 to its intersection with the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0191/020, then proceeding along the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0191/020 to its intersection with the eastern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S000-0100/025, then proceeding along the eastern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S000-0100/025 to its intersection with the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S000-0100/025, then proceeding along the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S000-0100/025 to its intersection with Maury Street, then proceeding along Maury Street to its intersection with East Commerce Road, the point of beginning.

(Code 2015, § 6-593; Ord. No. 2016-144, § 1, 6-27-2016)

Sec. 6-596. Port of Richmond Tourism Zone.

There is hereby established a Port of Richmond Tourism Zone. The boundaries of the Port of Richmond Tourism Zone shall be as follows: beginning at the intersection of the James River and the corporate boundary of the City, then proceeding north along the James River to its intersection with the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1042/011, then proceeding along the northern property line of the properties identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1042/011 and Tax Parcel No. S007-1042/015 to its intersection with Interstate 95, then proceeding along Interstate 95 to its intersection with the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0292/004, then proceeding along the northern property line of the property

identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0292/004 to its intersection with the property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0940/056, then proceeding in a northerly direction along the property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-0940/056 to its intersection with Goodes Street, then proceeding along Goodes Street to its intersection with East Commerce Road, then proceeding along East Commerce Road to its intersection with Ingram Avenue, then proceeding along Ingram Avenue to its intersection with East 17th Street, then proceeding along East 17th Street to its intersection with Bruce Street, then proceeding along Bruce Street to its intersection with Elmdale Avenue, then proceeding along Elmdale Avenue to its intersection with the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1088/001, then proceeding along the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1088/001 to its intersection with the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1088/001, then proceeding along the western property lines of the properties identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1088/001, Tax Parcel No. S007-1237/003, Tax Parcel No. S007-1237/004, and Tax Parcel No. S007-1237/006 to the intersection of the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1237/006 with an unimproved east-west alley north of Carter Creek Road, then proceeding along such unimproved east-west alley north of Carter Creek Road to its intersection with the northwestern tip of the property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1237/001, then proceeding along the western property line of the properties identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1237/001, Tax Parcel No. S007-1337/007, Tax Parcel No. S007-1337/008, and Tax Parcel No. S007-1337/003, then proceeding along the southern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1337/003 to its intersection with the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1337/004, then proceeding along the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S007-1337/004 to its intersection with Royall Avenue, then proceeding along Royall Avenue to its intersection with East Commerce Road, then proceeding along East Commerce Road to its intersection with Bellemeade Road, then proceeding along Bellemeade Road to its intersection with the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0276/024, then proceeding along the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0276/024 to the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0276/010, then proceeding along the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0276/010 to its intersection with the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0276/022, then proceeding along the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0276/022 to its intersection with Bellemeade Road, then proceeding along Bellemeade Road to its intersection with Lynhaven Avenue, then along Lynhaven Avenue to its intersection with an unimproved east-west alley between Yorktown Avenue and Concord Avenue, then proceeding easterly along such unimproved east-west alley between Yorktown Avenue and Concord Avenue to its intersection with the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0601/045, then proceeding along the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0601/045 to its intersection with Ruffin Road, then proceeding along Ruffin Road to its intersection with the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0785/070, then proceeding along the western property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-0785/070 to its intersection with an unimproved north-south alley between Mike Road and East Commerce Road, then proceeding along such unimproved north-south alley between Mike Road and East Commerce Road to its intersection with the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-1038/001, then proceeding along the northern property line of the property identified in the 2016 records of the City Assessor as Tax Parcel No. S008-1038/001 to its intersection with a CSX Transportation, Inc. railroad track, then proceeding south along such CSX Transportation, Inc. railroad track to its intersection with the corporate boundary of the City, and then proceeding easterly along the corporate boundary of the City to its intersection with the James River, the point of beginning.

(Code 2015, § 6-594; Ord. No. 2016-144, § 1, 6-27-2016)

Sec. 6-597. Scott's Addition Tourism Zone.

There is hereby established a Scott's Addition Tourism Zone. The boundaries of the Scott's Addition Tourism Zone shall be as follows: beginning at the intersection of North Boulevard and Hermitage Road, then proceeding along Hermitage Road to its intersection with West Leigh Street, then proceeding along West Leigh Street to its intersection with North Lombardy Street, then proceeding along North Lombardy Street to its intersection with West Broad Street, then proceeding along West Broad Street to its intersection with the Richmond, Fredericksburg and Potomac Railway Co. railroad tracks at the center of Interstate 195, then proceeding north along such railroad tracks until they veer in an easterly direction and intersect with Richmond, Fredericksburg and Potomac Railway Co. railroad tracks heading in a southeasterly direction, then proceeding along such railroad tracks to their intersection with North Boulevard, then proceeding along North Boulevard to its intersection with Hermitage Road, the point of beginning.

(Code 2015, § 6-595; Ord. No. 2016-144, § 1, 6-27-2016)

Chapter 7

CEMETERIES*

***Charter reference**—Authority of City to regulate cemeteries and burials therein, prohibit burials except in public burying grounds, etc., § 2.04(i); authority of City to establish, own, maintain and operate, within and without the City, cemeteries for the interment of the dead, make contracts for their perpetual care, etc., § 2.05(d).

Cross reference—Licensing of cemeteries, § 26-953.

State law reference—Authority of city to provide places of interment of dead in or near City, Code of Virginia, § 15.2-1121; authority to regulate, Code of Virginia, § 15.2-1111; destruction of cemetery property, Code of Virginia, § 18.2-127; cemeteries, Code of Virginia, § 57-22 et seq.; authority to prohibit burials in Ham's, Cedarwood, Methodist, Union Mechanics, Ebenezer and Sycamore cemeteries, Code of Virginia, § 57-27; postmortem examinations, Code of Virginia, § 32.1-277 et seq.; investigation of death, Code of Virginia, § 32.1-283.

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burial space means the subdivision of land in a cemetery for the interment of one person, except as specifically authorized in Section 7-8.

Cemetery means all land in and owned by or under the supervision and control of the City, devoted exclusively to the interment of deceased persons, and all land acquired by the City for such purpose.

Director means the Director of Parks, Recreation and Community Facilities and duly authorized representatives.

Limited seasonal care means the cutting or prevention of high growth of vegetation during the growing season.

Lot means the subdivision of land in a cemetery for the interment of more than one person.

(Code 1993, § 7-1; Code 2004, § 22-1; Code 2015, § 7-1)

Cross reference—Definitions generally, § 1-2.

Sec. 7-2. Management and control.

The control and management of the City's cemeteries is vested in the Director, and it shall be the Director's duty to manage, operate and maintain the City's cemeteries.

(Code 1993, § 7-2; Code 2004, § 22-2; Code 2015, § 7-2)

Cross reference—Other functions of Director of Parks, Recreation and Community Facilities, § 2-484.

Sec. 7-3. Duties of Director.

(a) For the purposes of this chapter, the Director shall:

(1) Subdivide the land in cemeteries, which has not been subdivided, into burial spaces and lots.

(2) Establish the size and grade of all burial spaces and lots, which may be changed from time to time when necessary for the economic and efficient maintenance and care of such burial spaces and lots, to prevent the impairment or interference with the use thereof or to promote, preserve and improve the appearance and dignity of the cemeteries.

(3) Lay out, grade, improve, maintain and operate such roads and ways as are necessary to provide reasonable and convenient access to such burial spaces and lots.

(4) Designate subdivisions of land for the use of burial spaces and subdivisions of land for the use of lots.

(b) The Director may install, maintain and operate such drainage and water facilities and other fixtures and appurtenances as are necessary for the maintenance and operation of the cemeteries.

(Code 1993, § 7-3; Code 2004, § 22-3; Code 2015, § 7-3)

Cross reference—Other functions of Director of Parks, Recreation and Community Facilities, § 2-484.

Sec. 7-4. Compensation for services of officers and employees.

No money shall be paid to any officer or employee of the City in reward or as compensation for any service in connection with this chapter. This section does not prohibit the payment of regular salaries by the City.

(Code 1993, § 7-4; Code 2004, § 22-4; Code 2015, § 7-4)

Sec. 7-5. Interments, disinterments, reinterments and entombments generally.

All interments, disinterments, reinterments and entombments made in cemeteries and all funerals conducted incident thereto or in connection therewith shall be under the supervision and direction of the Director. All interments, disinterments, reinterments and entombments shall be conducted by the Director in accordance with the laws of the State, this Code and other City ordinances applicable thereto, the charges for which shall be paid in advance. No interment, disinterment, reinterment or entombment shall be made until notice thereof is given, in writing, to the Director. No interment, disinterment, reinterment or entombment shall be made on Thanksgiving Day or Christmas Day. No interment, disinterment, reinterment or entombment shall be made on Sunday, unless directed by the District Health Director. No interment, disinterment, reinterment or entombment shall be made until all documents required by State law for the purpose have been issued or obtained and delivered to the Director and the consent, in writing, of the owner of the burial rights in and to the burial space or lot has been filed with the Director in such form as the Director shall prescribe. No grave shall be prepared for interment, disinterment, reinterment or entombment or backfilled thereafter, except by the Director. Advance notice must be given to the cemetery office of the intention to disinter the remains of any person who died of a virulent contagious disease so that proper time may be appointed for the disinterment and proper arrangements made for the protection of the public and the cemetery crew.

(Code 1993, § 7-5; Code 2004, § 22-5; Code 2015, § 7-5)

Sec. 7-6. Service charges for interments, disinterments, reinterments and entombments.

(a) Services in connection with or incident to interments, disinterments and reinterments shall be provided by the Director upon payment of the charges prescribed therefor as set out in this section, which may be increased or decreased or otherwise modified at any time or from time to time by the Council, provided that the Director may provide such services without payment of such charges when the payment is guaranteed, in writing, by a licensed funeral director or monument dealer having a place of business in the City, in the City of Petersburg, or in the counties of Hanover, Henrico and Chesterfield, and when so guaranteed, the funeral director or monument dealer shall pay the charges to the City at such time not exceeding ten days after such charge is presented to the funeral director or monument dealer, unless such charges have theretofore been paid. Failure to pay service charges for interments, disinterments, reinterments and entombments when due shall be subject to the penalties and interest provided for in Code of Virginia, § 15.2-105. The service charges for the preparation of space for interments or entombments shall be as follows:

(1)	Adult grave preparation:		
	a.	Weekdays	$1,195.00
	b.	Saturdays	$1,390.00
	c.	Sundays and holidays	$1,510.00
(2)	Preparation of burial space for an adult graveside service, in addition to the applicable charge in subsection (1) of this table		$240.00
(3)	Preparation of child grave, children or baby section:		
	a.	Weekdays	$550.00
	b.	Saturdays	$660.00

	c.	Sundays and holidays	$770.00
(4)	Cremated remains:		
	a.	Weekdays	$600.00
	b.	Saturdays	$725.00
	c.	Sundays and holidays	$770.00
(5)	Rate for recordkeeping, not otherwise covered		$100.00
(6)	Hourly rate for labor not covered by schedule of charges		$100.00
(7)	Charge for extra tent		$100.00
(8)	Charge for extra chairs (six)		$30.00

(b) The charges for disinterment and for reinterment shall be as follows:

For a person over the age of 12 years	$1,200.00
In all other cases	$800.00
Reinterment, in all cases	$800.00

(c) The charge for the admission of a funeral procession to a cemetery on any day shall be as follows:

After 3:30 p.m. and until 4:00 p.m.	$360.00
After 4:00 p.m. and until 4:30 p.m.	$410.00
After 4:30 p.m. and until 5:00 p.m.	$440.00

(d) No funeral procession shall be admitted to a cemetery after 5:00 p.m.

(e) The time referred to in this section is Eastern Standard Time or Daylight Savings Time, as appropriate.

(f) Charges for preparation of burial spaces for the interment of persons interred at the expense of the City shall be the same as those herein prescribed for the interment of others. Such charges shall be paid by the Department of Social Services.

(g) The charges for the preparation of burial space for a double-depth interment shall be in addition to the foregoing applicable charge in this section and shall be $1,200.00.

(h) The holidays referred to in this schedule are holidays falling on January 1 (New Year's Day), the third Monday in January (birthday of Martin Luther King, Jr.), third Monday in February (Washington's birthday), Easter Monday, the last Monday in May (Memorial Day observance), July 4 (Independence Day), the first Monday in September (Labor Day), the Friday following Thanksgiving, the time observed as Christmas Eve, and the day observed as the Christmas holiday, if other than December 25. Whenever any of such days shall fall on Sunday, the Monday next following such day shall be the holiday.

(Code 1993, § 7-6; Code 2004, § 22-6; Code 2015, § 7-6; Ord. No. 2004-90-119, § 1, 5-24-2004; Ord. No. 2005-99-107, § 1, 5-31-2005; Ord. No. 2006-84-149, § 1, 5-30-2006; Ord. No. 2007-50-118, § 1, 5-29-2007; Ord. No. 2013-49-82, § 1, 5-28-2013; Ord. No. 2017-056, § 1, 5-15-2017; Ord. No. 2019-061, § 1, 5-13-2019)

Sec. 7-7. Interments or entombments in cemeteries.

No deceased persons shall be interred or entombed within the City, except in cemeteries.

(Code 1993, § 7-7; Code 2004, § 22-7; Code 2015, § 7-7)

Sec. 7-8. Interment or reinterment of more than one body in same burial space.

The body of no person shall be interred or reinterred in the same burial space with that of another person, unless such interment or reinterment is approved by the Director. The body of a mother and infant child under the age of one year or the bodies of two infant children under the age of five years may be interred or reinterred in the same casket, without the approval of the Director. The Director may permit double depth burials, that is interment of two bodies in the same grave space, provided that the first interment be made at double depth and no body previously interred be removed to make room for a second interment. The Director may refuse to permit a double depth interment if it would create a safety hazard or would jeopardize the maintenance of the condition of adjacent graves, monuments or other property. Only one marker shall be permitted per grave space, and no permanent marker shall be installed over a double depth grave until the second interment is made. Written approval of the owner of the lot or of all surviving next of kin must be furnished to the Director as a condition for authorization of a double depth burial.

(Code 1993, § 7-8; Code 2004, § 22-8; Code 2015, § 7-8)

Sec. 7-9. Lining for graves; charge for installation of cover.

Every grave shall be lined with or contain a vault or box made of brick, stone, concrete, or metal of not more than 12 gauge, or polypropylene or other synthetic materials with a stress strength of 3,000 pounds per square inch and life expectancy of 50 years or more or any combination thereof, so constructed, installed and reinforced as to effectively prevent settling of the ground of the lot or burial space. No grave shall be lined with or contain a box or structure made of wood. There shall be a service charge of $125.00 for the installation of covers on concrete boxes, metal vaults and vaults of synthetic materials, if performed by the City.

(Code 1993, § 7-9; Code 2004, § 22-9; Code 2015, § 7-9; Ord. No. 2013-49-82, § 1, 5-28-2013)

Sec. 7-10. Lowering devices, tents, artificial grass and other facilities, services or equipment.

(a) The City shall provide lowering devices, tents and artificial grass for lining graves and other facilities, services and equipment necessary for interments and the conduct of funerals, which shall be used for such purposes upon the payment of the charges prescribed therefor by the Council, which may be increased or decreased at any time and from time to time by the Council.

(b) No devices or equipment, including tents, artificial grass and lowering devices, required or used for interments or reinterments, other than such devices or equipment supplied by the City for the purpose, shall be used in any cemetery, provided that a lowering device for a vault shall be supplied by the vault vendor.

(Code 1993, § 7-10; Code 2004, § 22-10; Code 2015, § 7-10)

Sec. 7-11. Erection of monuments, tombstones, vaults, mausoleums, markers or similar structures.

No monument, tombstone, vault, mausoleum, marker or other similar or other kind of structure shall be erected, placed or maintained in a cemetery that is offensive or which unreasonably interferes with the maintenance and care of burial spaces or lots or detracts from the appearance and dignity of the cemetery. No vault or mausoleum shall be erected or placed in a cemetery, unless the plans and specifications therefor, the materials to be used in connection therewith and the manner in which such vault or mausoleum is to be erected or placed in the cemetery have been approved by the Director and a written permit is issued for the purpose and the burial site has been paid for in full. The Director shall approve such plans and specifications and permit the erection and maintenance of monuments, tombstones, markers or other structures whenever the Director is satisfied that such vaults or mausoleums are not offensive, will not unreasonably interfere with the maintenance and care of burial spaces or lots and will not detract from the appearance and dignity of the cemetery. The erection, placement and maintenance of monuments, tombstones, vaults, mausoleums, markers or other such structures shall be subject to the supervision of the Director. No artificial coloring shall be used on any monument, tombstone, vault, mausoleum, marker or other similar or other kind of structure in a cemetery. Headstones at burial spaces, for which limited seasonal care is provided, located in areas in the cemeteries set apart for single burial spaces, shall be level with the surface of the ground, and no mounds shall be maintained on such burial spaces.

(Code 1993, § 7-11; Code 2004, § 22-11; Code 2015, § 7-11)

Sec. 7-12. Sale of bronze memorials by City for placement in City cemeteries only.

The City, through the Director, shall sell, solely for placement at grave sites in City-owned and -operated cemeteries, bronze memorials or plaques. The purchaser of the memorial shall pay to the City a reasonable price, to be established by the Director. The price shall be subject to change according to the cost to the City of procuring such memorials. The price shall be prominently displayed at each location at which memorials are available for sale, which price and the estimated cost of any lettering to be done on any such memorial shall be paid to the Director at the time of ordering a memorial. The sale price of any memorial, subject to payment of costs incurred in special preparation of the memorial, shall be paid into the City treasury.

(Code 1993, § 7-12; Code 2004, § 22-12; Code 2015, § 7-12)

Sec. 7-13. Installation of foundations for monuments, headstones and markers.

All foundations for monuments, headstones and markers shall be installed by the City at the cost and expense of the person applying in writing to the Director for such installation. The City Council shall prescribe the charges to be made for such installations, which shall be paid in advance, and the charges may be increased or decreased at any time and from time to time by the Council. However, memorial dealers licensed to do business in the City may erect tombstones or other similar memorials in the lots, vault sites or spaces in the single grave portions, upon foundations provided therefor by the City. Such dealers having a place of business in the City; the City of Petersburg; or in the counties of Hanover, Henrico and Chesterfield shall pay to the City the cost and expense incurred in providing such foundations at such time, not exceeding 20 days, as may be determined by the Director of Finance and to such agent of the City as may be designated by the Director of Finance, and such agent shall pay the funds so received into the City treasury at such time as the Director shall prescribe.

(Code 1993, § 7-13; Code 2004, § 22-13; Code 2015, § 7-13)

Sec. 7-14. Mounds prohibited.

Square box-type mounds and oval-type mounds shall not be permitted on graves.

(Code 1993, § 7-14; Code 2004, § 22-14; Code 2015, § 7-14)

Sec. 7-15. Charges for installation of foundation for monument or grave marker.

(a) For the installation of a foundation for a monument, grave marker or any other marker, including a government marker, structure or similar installation a charge shall be charged for the foundation and installation of all upright markers and shall be as follows:

Per square inch of base surface space for the installation of any foundation	$0.80
Minimum charge	$160.00
Charge for foundation and installation of all flat government-issued markers	$200.00
Charge for foundation and installation of all upright markers	$275.00

(b) Payment of such charge shall be made at such time and to such agent of the City as may be designated by the Director of Finance, and such agent shall pay the money so received into the City treasury at such time as the Director of Finance shall prescribe.

(Code 1993, § 7-15; Code 2004, § 22-15; Code 2015, § 7-15; Ord. No. 2004-90-119, § 1, 5-24-2004; Ord. No. 2005-99-107, § 1, 5-31-2005; Ord. No. 2006-84-149, § 1, 5-30-2006; Ord. No. 2007-50-118, § 1, 5-29-2007; Ord. No. 2013-49-82, § 1, 5-28-2013)

Sec. 7-16. Enclosure around burial space or lot.

No enclosure of any kind, whether a fence, coping, hedge, ditch or other structure or device, shall be placed or installed around any burial space or lot. No burial space or lot shall be raised above the grade established by the Director for the burial space or lot. Whenever any existing enclosure is found by the Director to be in a dilapidated condition, the Director shall give written notice thereof to the owner of the burial rights in and to the burial space

or lot at the last known post office address of such owner to the effect that, if the enclosure is not repaired within ten days after receipt of such notice, it will be removed by the Director. Should such owner fail, refuse or neglect to repair or replace the enclosure or if the post office address of the owner is unknown or the owner cannot with due diligence be found, the Director shall remove such enclosure, and no enclosure shall thereafter be placed around such burial space or lot.

(Code 1993, § 7-16; Code 2004, § 22-16; Code 2015, § 7-16)

Sec. 7-17. Wooden or metal benches, settees, boxes or similar things in burial space or lot.

Wooden or metal benches or settees, boxes, shells, toys and other similar things shall not be placed or maintained at a burial space or on a lot. No other settee or bench shall be placed or maintained at a burial space nor on a lot having an area of less than 100 square feet, and not more than one settee or bench shall be placed or maintained on a lot. No metal or wooden easel shall be used as a support for a grave marker.

(Code 1993, § 7-17; Code 2004, § 22-17; Code 2015, § 7-17)

Sec. 7-18. Trees, shrubs or plants.

No tree, shrub or plant shall be planted or pruned in or removed from a cemetery, without the consent of the Director. The Director may plant, prune, remove or transplant any tree, shrub or plant in a cemetery or at any burial space or lot whenever it is necessary to do so in order to:

(1) Economically maintain and care for burial spaces or lots;

(2) Prevent the impairment of or interference with the use of other burial spaces or lots; or

(3) Promote, preserve or improve the appearance and dignity of the cemetery.

(Code 1993, § 7-18; Code 2004, § 22-18; Code 2015, § 7-18)

Sec. 7-19. Prerequisites to beginning work on burial space or lot.

No work of any kind or character shall be done on any burial space or lot, unless written authority of the owners of the burial rights therein to do so is delivered to the Director and a written permit therefor is issued by the Director to the person engaged to do such work.

(Code 1993, § 7-19; Code 2004, § 22-19; Code 2015, § 7-19)

Sec. 7-20. Leaving material longer than necessary to complete work; commencing work on Saturday.

No material of any kind shall be permitted to remain in a cemetery longer than is necessary to complete any work done therein. No work shall be commenced on Saturday that cannot be completed on the same day.

(Code 1993, § 7-20; Code 2004, § 22-20; Code 2015, § 7-20)

Sec. 7-21. Maintenance and operation of existing cemeteries; establishment of new cemeteries.

The public and private cemeteries or other places of burial of deceased persons operated and maintained as such within the City as of May 23, 1955, may be used, operated and maintained for such purpose, but no new cemetery or other place of burial of deceased persons shall be established, operated or maintained within the City without the consent of the City Council.

(Code 1993, § 7-21; Code 2004, § 22-21; Code 2015, § 7-21)

Sec. 7-22. Hours cemetery open; manner of entering.

No person shall enter a cemetery, except during the hours it is open to the public. The cemeteries shall be open between the hours of 7:00 a.m. and sunset. No person shall enter a cemetery, except at the places provided for public entry. The time referred to in this section is Eastern Standard Time and Eastern Daylight Savings Time when they are, respectively, in effect in the City.

(Code 1993, § 7-22; Code 2004, § 22-22; Code 2015, § 7-22)

Sec. 7-23. Minors.

No child under the age of 12 years shall be permitted in a cemetery, unless accompanied by a competent adult

person.

(Code 1993, § 7-23; Code 2004, § 22-23; Code 2015, § 7-23)

Sec. 7-24. Disorderly conduct.

No person shall engage in or contribute to any disorderly conduct of any kind in a cemetery. Disorderly conduct shall be any conduct which:

(1) Adversely affects the interment, disinterment, reinterment or entombment of the dead;

(2) Adversely affects the conduct of funerals;

(3) Adversely affects the economic maintenance and care of the cemetery;

(4) Adversely affects the promotion, preservation or improvement of its appearance and dignity; or

(5) Otherwise is detrimental to public morals or the purposes for which the cemetery is established or maintained.

(Code 1993, § 7-24; Code 2004, § 22-24; Code 2015, § 7-24)

Sec. 7-25. Traffic.

Motor vehicles shall not be operated in cemeteries at a speed in excess of 15 miles per hour. No motor vehicle shall be parked or stopped at or near an opened grave, unless such motor vehicle is used in the preparation of the grave for interment, disinterment, reinterment or entombment or in attendance at the funeral for which the grave is opened. No vehicle shall be operated in a cemetery which is likely to injure or damage the cemetery roads, ways or property.

(Code 1993, § 7-25; Code 2004, § 22-25; Code 2015, § 7-25)

Cross reference—Traffic and vehicles, Ch. 27.

Sec. 7-26. Dogs.

Except as provided in Code of Virginia, § 51.5-44, no dog shall be allowed to enter the boundaries of a cemetery or to remain therein.

(Code 1993, § 7-26; Code 2004, § 22-26; Code 2015, § 7-26)

Cross reference—Animals generally, Ch. 4; dogs and cats, § 4-159 et seq.

Sec. 7-27. Beverages, food or food products.

No beverage, food or food product shall be carried or transported in a cemetery for use or consumption nor used or consumed therein.

(Code 1993, § 7-27; Code 2004, § 22-27; Code 2015, § 7-27)

Sec. 7-28. Advertisements and advertising.

(a) No person shall bring into a cemetery or display therein any advertisement or advertising matter of any kind, except that normally displayed on vehicles or uniforms.

(b) No advertisement or advertising matter shall be placed on any monument or grave marker or other structure in a cemetery, except that identifying insignia registered at the United States Patent Office may be displayed. However, such insignia shall be sand blasted into the monument, grave marker or structure without pigmentation and shall be not more than two inches square in total area.

(Code 1993, § 7-28; Code 2004, § 22-28; Code 2015, § 7-28)

Cross reference—Advertising practices, § 6-123 et seq.

State law reference—Prohibition against advertising near cemeteries, Code of Virginia, § 33.2-1216(1).

Sec. 7-29. Disposal of rubbish, trash, waste material or debris.

In any cemetery, all rubbish, trash, waste material or debris shall be disposed of in containers provided by the Director for the purpose or, in the absence of any such container, shall be carried from the cemetery.

(Code 1993, § 7-29; Code 2004, § 22-29; Code 2015, § 7-29)

Cross reference—Solid waste, Ch. 23.

Sec. 7-30. Removal of flowers and funeral or floral designs from burial space or lot.

The Director shall remove from a burial space or lot after an interment, reinterment or entombment all flowers, funeral or floral designs when they become wilted or unsightly or in any event after the lapse of 48 hours after the interment, reinterment or entombment. All flowers, floral arrangements, decorations and wreaths, including those on top of monuments, shall be removed from the various lots or graves in all of the municipal cemeteries not later than March 1 of each year by the owner. All such floral arrangements may be returned to the cemetery on or after the third Saturday in March. Those flowers, floral arrangements, decorations and wreaths not removed by the owner by sundown March 1 will be removed by the City. There shall be permitted no more than two wreaths, decorations or arrangements per grave space, except on Easter Sunday, Memorial Day, Thanksgiving Day and Christmas Day. Any wreaths, decorations and arrangements in excess of two per grave space placed for Easter Sunday, Memorial Day, Thanksgiving Day or Christmas Day shall be removed by sundown of the tenth day following such days by the owner.

(Code 1993, § 7-30; Code 2004, § 22-30; Code 2015, § 7-30)

Sec. 7-31. Use of hose for watering or sprinkling burial space or lot.

No person shall use a hose for watering or sprinkling burial spaces or lots, except between May 31 and October 1, during which period the hose may be attached to existing water facilities, should such facilities be available for that purpose. The owners of burial spaces or lots shall be responsible for all damages directly or indirectly resulting from such use of hose, which shall be removed from the cemetery after each use or otherwise disposed of by the Director.

(Code 1993, § 7-31; Code 2004, § 22-31; Code 2015, § 7-31)

Sec. 7-32. Unlawful use of water.

No water shall be used in a cemetery for washing vehicles or for any other purpose not connected with or incidental to the operation and maintenance of the cemetery.

(Code 1993, § 7-32; Code 2004, § 22-32; Code 2015, § 7-32)

Secs. 7-33—7-52. Reserved.

ARTICLE II. CITY'S CEMETERIES*

***Cross reference—**City-owned real estate, Ch. 8.

Sec. 7-53. Oakwood, Riverview, Maury and Mt. Olivet cemeteries.

(a) This section shall be applicable only in and to burial spaces in Oakwood Cemetery, Riverview Cemetery, Maury Cemetery and Mt. Olivet Cemetery and, in particular, to the area in Oakwood Cemetery designated Sections 80, 81, 82, 83 and F; the area in Riverview Cemetery designated Plot BB, Divisions 24, 25, 26 and 27; the area in Maury Cemetery designated Divisions 56, 69, 70A and 73; and the area in Mt. Olivet Cemetery designated Division 67, such areas being shown and so designated on the plans of such cemeteries on file in the Office of the Director. However, in the eastern one-half of Lot 61 of Section AA of Riverview Cemetery, the rules and regulations applicable to single grave burial spaces in cemeteries with respect to the number, height and size of monuments, tombstones and markers shall apply.

(b) In the cemeteries or parts of cemeteries mentioned in subsection (a) of this section, there shall be compliance with the following:

(1) No mounds shall be permitted or maintained over graves.

(2) No tree, shrub or plant of any kind shall be planted or maintained at or on burial spaces or lots.

(3) Monuments, tombstones, vaults, mausoleums, markers or other similar or other kinds of structures may be erected on lots, but no grass-type marker shall be placed on a lot, unless it is on a level with the grade established by the Director for the lot. In no case shall more than one grave marker be placed for each

grave. Section 7-11 shall be applicable to the erection or placement of monuments, tombstones, vaults, mausoleums, markers or other similar or other kinds of structures in such areas.

(4) The area occupied by a monument or tombstone shall not exceed 15 percent of the entire area of a lot.

(5) The length of a monument shall not exceed 60 percent of the average width of a lot.

(6) Individual grave markers shall be level with the ground and may be installed at either the head or foot of graves. Individual grave markers level with the ground shall not exceed 30 inches in length and 14 inches in width.

(7) No foundation for a monument shall be installed over a grave when a wooden or sectional type box is used in an interment, except that a foundation shall be permitted to extend over a grave not more than 15 percent of the width of the foundation.

(8) All monuments or tombstones shall be set on the center at the head of lots.

(9) Ledger-type markers may be installed on all graves, except those for which limited seasonal care is provided.

(10) No foundation or monument shall be installed or placed closer to the lines of a lot than three inches. Wherever possible, at least 18 inches shall be allowed at the head of the lot for a monument space; and whenever a lot is so arranged that interments are placed one behind the other, at least one foot shall be allowed between the head and foot of the graves so arranged. When a lot is so arranged that there is not sufficient room to allow at least 18 inches at the head, the maximum space possible under the circumstances shall be allowed.

(11) Wherever a headstone, tombstone or grave marker has been installed prior to May 23, 1955, exact duplication as to dimensions thereof may be thereafter installed in line with the existing headstone, tombstone or grave marker on the same lot, but in no case shall foundations be installed for such duplications, except as provided in this section.

(12) Wherever a double-type marker level with the ground is installed on a lot in place of a monument, its length shall not exceed 60 percent of the average width of the lot, and its foundation shall be installed on solid ground. However, it shall be permitted to extend over a grave where a wooden or sectional type box is used in the interment not exceeding 15 percent of the width of the base of the marker.

(13) No individual marker shall be installed at any burial space, other than a burial space for which limited seasonal care is provided, which exceeds 30 inches in height, nor shall any double-type grave marker used at two single graves exceed 48 inches in width.

(14) In all cases, grave markers, except as otherwise provided in this section, shall be installed at the head of each grave.

(15) All lot corner markers shall be installed level with the grade established by the Director for the lot.

(c) The sections of this chapter shall apply to the areas to which this section applies as though set out at length in this section. However, where the subsections of this section are clearly in conflict with other sections of this chapter, this section shall apply.

(Code 1993, § 7-33; Code 2004, § 22-66; Code 2015, § 7-53)

Sec. 7-54. Interments in mortuary chapel of Sacred Heart Cathedral.

The authorities of the Sacred Heart Cathedral, bounded by Laurel Street, Floyd Avenue, Cathedral Place and Park Avenue, may permit the interment of the family and lineal descendants of Thomas F. Ryan, any bishop of the Roman Catholic Diocese of Virginia and any other person upon the recommendation of the bishop of the Roman Catholic Diocese of Virginia in the mortuary chapel of the Cathedral, so long as the number of persons interred therein shall not exceed 50.

(Code 1993, § 7-34; Code 2004, § 22-67; Code 2015, § 7-54)

Sec. 7-55. Reservation and maintenance of certain land in Riverview Cemetery for certain interments.

(a) The land in Riverview Cemetery assigned and set apart for the use of Fitzhugh Lee Camp of Spanish-

American War Veterans shall be reserved, used and maintained for the interment of veterans of the Spanish-American War, who have no other place of interment, and the Director is authorized and directed to make provision for the perpetual care thereof.

(b) The land in Riverview Cemetery assigned and set apart for the use of the Richmond Chapter of the United Daughters of the Confederacy shall be reserved, used and maintained for the interment of destitute Confederate women, and the Director is authorized and directed to make provision for the perpetual care thereof.

(c) The land in Riverview Cemetery assigned and set apart for the use of Post No. 1 of the American Legion shall be reserved, used and maintained for the interment of destitute members of the Armed Forces of the United States, and the Director is authorized and directed to make provision for the perpetual care thereof.

(d) The land in Riverview Cemetery assigned and set apart for the use of the Home for Needy Confederate Women shall be reserved, used and maintained for the interment of the residents of the home, who die in such institution, and the Director is authorized and directed to make provision for the perpetual care thereof.

(e) The land in Riverview Cemetery assigned and set apart for the use of the Virginia Home shall be reserved, used and maintained for the interment of the residents of the home, who die in such institution, and the Director is authorized and directed to make provision for the perpetual care thereof.

(f) The Director is authorized and directed to continue to make provision for the perpetual care of the land in Riverview Cemetery in which the remains of Humphrey Calder are interred.

(g) The Director is authorized and directed to continue to make provision for the perpetual care of the land in Riverview Cemetery, the burial rights in which have been acquired by Richmond Lodge No. 45, Benevolent and Protective Order of the Elks of the City.

(h) The land in Riverview Cemetery assigned and set apart for the use of the Service Legion of the City shall be reserved, used and maintained for the interment of veterans of World War I, who may have no other place of interment, and the Director is authorized and directed to make provision for the perpetual care thereof.

(Code 1993, § 7-35; Code 2004, § 22-68; Code 2015, § 7-55)

Sec. 7-56. Reservation and maintenance of certain land in Maury Cemetery for certain interments.

(a) The land in Maury Cemetery assigned and set apart for the use of the Elliott Grays Chapter of the United Daughters of the Confederacy shall be reserved, used and maintained for the interment of Confederate veterans, their widows and Confederate women, who have no other place of interment, and the Director is authorized and directed to make provision for the perpetual care thereof.

(b) The land in Maury Cemetery assigned and set apart for the use of Southside Post No. 137 of the American Legion shall be reserved, used and maintained for the interment of destitute members of the Armed Forces of the United States, provided that no curbs or mounds shall be placed or maintained on such land, and the Director is authorized and directed to make provision for the perpetual care thereof.

(Code 1993, § 7-36; Code 2004, § 22-69; Code 2015, § 7-56)

Sec. 7-57. Reservation and maintenance of land in Oakwood Cemetery for interment of Confederate veterans.

The land in Oakwood Cemetery assigned and set apart for the interment of Confederate veterans shall be reserved, used and maintained for such purpose, and the Director is authorized and directed to make provision for the perpetual care thereof.

(Code 1993, § 7-37; Code 2004, § 22-70; Code 2015, § 7-57)

Sec. 7-58. Maintenance of enclosure of St. John's Burying Ground.

The Director shall keep in good order the enclosure of St. John's Burying Ground, bounded by 24th Street, 25th Street, Broad Street and Grace Street, including the wall, gates and steps and all other structures, graves, fixtures and appurtenances therein, outside of the church buildings on such property.

(Code 1993, § 7-38; Code 2004, § 22-71; Code 2015, § 7-58)

Sec. 7-59. Effect of chapter on other ordinances or acts.

All ordinances and other acts of the City Council granting special burial rights and privileges in the City's cemeteries are kept in full force and effect, subject to this chapter.

(Code 1993, § 7-39; Code 2004, § 22-72; Code 2015, § 7-59)

Sec. 7-60. Correction of errors.

The City reserves and shall have the right to correct any errors that may be made by it either in making interments, disinterments, entombments or removals or in the description, transfer, or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value by the cemetery or, in the sole discretion of the cemetery, by refunding the amount of money paid on account of such purchase. If the error shall involve the interment of the remains of any person in such property, the cemetery reserves and shall have the right to remove and reinter the remains to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

(Code 2004, § 22-73; Code 2015, § 7-60)

Secs. 7-61—7-78. Reserved.

ARTICLE III. BURIAL RIGHTS

Sec. 7-79. Maintenance and contents of records of ownership.

The Director shall keep at each cemetery, in which a building suitable for the purpose exists, a record of the ownership of the burial rights in each burial space and lot and of each interment, disinterment, reinterment and entombment therein; otherwise, such record shall be kept in the Office of the Director. Such record shall contain, when known, the name, sex, age at death, race, place, date of death, cause of death, and the date and place of interment, disinterment, reinterment or entombment of each person interred, disinterred, reinterred or entombed in the cemetery.

(Code 1993, § 7-51; Code 2004, § 22-106; Code 2015, § 7-79)

Sec. 7-80. Availability of records to interested persons.

The records referred to in Section 7-79 kept at each cemetery or in the Office of the Director shall be available at all reasonable times to persons who have a bona fide interest therein. The Director shall also make such records available to persons who have a historical interest therein.

(Code 1993, § 7-52; Code 2004, § 22-107; Code 2015, § 7-80)

Sec. 7-81. Granting generally; application.

(a) Burial rights in and to burial spaces and lots in cemeteries shall be granted by the Director, when written application for the grant of such rights is filed with the Director and upon payment of the charges prescribed by the City Council therefor as set out in Section 7-92, which may be increased or decreased at any time and from time to time by the Council, provided that burial rights in areas in the cemeteries set apart for single burial spaces shall not be granted for more than two burial spaces to any one person. In cemeteries with two-grave lots or companion grave sections; however, no more than one burial space shall be granted to any one person in the single-grave area. Whenever a body is disinterred in an area in a cemetery set apart for single burial spaces, the burial rights in and to the burial space shall be retained by the individual to whom the certificate and burial rights have been issued or granted, unless:

(1) The individual to whom the certificate and burial rights have been issued or granted at any time submits to the Director a written notice of such individual's intent to, in lieu of retaining such burial rights, accept a credit in an amount equal to the cost of the burial space as of the date the certificate and burial rights were initially issued or granted, which shall be used towards the purchase of or to defray the costs expended for a separate burial space or lot in a cemetery, less any amounts due to the City for such individual's purchase of any burial space or lot or for any charges accrued in connection with services the City has provided in accordance with this chapter for which such individual is responsible or has accepted responsibility; or

(2) The individual to whom the certificate and burial rights have been issued or granted is deceased, in which case such burial rights shall pass in accordance with Section 7-88.

Whenever an individual to whom a certificate and burial rights have been issued or granted submits to the Director a written notice of such individual's intent to, in lieu of retaining such burial rights, accept a credit in accordance with this subsection, the Director may apply such credit, less any amounts due to the City for such individual's purchase of any burial space or lot or for any charges accrued in connection with services the City has provided in accordance with this chapter for which such individual is responsible or has accepted responsibility, either towards the purchase of a separate burial space or lot in a cemetery or, if such individual has purchased a separate burial space or lot prior to submitting such notice, the issuance of a refund. No credit issued in accordance with this subsection shall be sold or transferred and, upon the death of an individual to whom the City has issued such a credit, such credit shall lapse and be of no effect if not used prior to such individual's date of death.

(b) The form of the application shall be prescribed by the Director and shall contain a designation or description and the location in the cemetery of the burial space or lot and shall provide that the grant of such burial rights shall be subject to all of the sections of this chapter, which may be amended, altered or replaced at any time and from time to time by the City Council. The application shall be made and signed only by the person to whom the certificate provided for by Section 7-84 is issued, and the applicant shall thereby agree, on the applicant's behalf and on behalf of any successors to such burial rights, to be bound by, observe and comply with the sections of this chapter as such sections exist at the time the application is made or as they may be thereafter amended, altered or repealed.

(Code 1993, § 7-53; Code 2004, § 22-108; Code 2015, § 7-81; Ord. No. 2011-190-186, § 1, 11-28-2011)

Sec. 7-82. Sale and resale.

The Director shall not grant burial rights in and to burial spaces or lots for resale, and no burial right shall be sold, granted or transferred to another person for the purpose of resale, grant or transfer. Every sale or grant made in violation of this section shall be void and unenforceable.

(Code 1993, § 7-54; Code 2004, § 22-109; Code 2015, § 7-82)

Sec. 7-83. Transfer generally.

Burial rights granted under this article may be transferred by the person to whom the certificate is issued by the execution of an instrument of transfer by the transferor and transferee and the delivery of the certificate and the instrument of transfer to the Director and payment to the City of a transfer fee of $100.00, but not otherwise. The transferee of such burial rights shall in the instrument of transfer agree on behalf of the transferee or any successors to such rights to be bound by, observe and comply with the terms and conditions upon which the certificate was issued and the burial rights granted. No transfer of such certificate or burial rights shall be valid or effective unless the Director shall be satisfied that the transferee is a person having the right under this chapter to acquire burial rights in the cemetery in which such rights are to be transferred and shall indicate approval of the transfer on the instrument of transfer.

(Code 1993, § 7-55; Code 2004, § 22-110; Code 2015, § 7-83; Ord. No. 2013-49-82, § 1, 5-28-2013)

Sec. 7-84. Issuance and contents of certificate.

When the burial rights in and to a lot are granted by the Director, the Director shall issue only to the applicant therefor and in such applicant's name a certificate of burial rights. The certificate shall contain the date on which the charges were paid to the City for such burial rights and the designation or description and the location in the cemetery of the burial space or lot specified in the application. The certificate shall provide that it is issued subject to all sections of this chapter, which may be amended, altered or repealed at any time and from time to time by the City Council, provided that no rights which have become vested at the time of such amendment, alteration or repeal shall be denied or impaired.

(Code 1993, § 7-56; Code 2004, § 22-111; Code 2015, § 7-84)

Sec. 7-85. Duplicate certificates.

A certificate of burial rights may be issued in duplicate upon payment to the City of a fee of $100.00 upon

affidavit of the owner of the burial rights granted by such certificate to the effect that the original certificate or duplicate thereof previously issued has been lost or destroyed.

(Code 1993, § 7-57; Code 2004, § 22-112; Code 2015, § 7-85; Ord. No. 2013-49-82, § 1, 5-28-2013)

Sec. 7-86. Transferring existing certificate and issuing new certificates of burial rights generally.

All certificates conveying burial rights in the cemeteries prior to May 23, 1955, may be transferred or new certificates provided for in this chapter may be issued to persons having a lawful right to use burial spaces or lots for interment purposes in the cemeteries, upon application to and approval by the Director and the payment to the City of a transfer fee of $100.00. The Director shall approve such transfers or issue such certificates when satisfied that such transferees are persons having the right under this chapter to acquire burial rights in cemeteries in which such rights are to be transferred or the persons representing themselves as the successors to the burial rights theretofore granted are all the lawful successors to such rights as provided in this chapter. No such certificate shall be transferred or issued except in the names of all such successors.

(Code 1993, § 7-58; Code 2004, § 22-113; Code 2015, § 7-86; Ord. No. 2013-49-82, § 1, 5-28-2013)

Sec. 7-87. Granting burial rights and issuing certificates to associations, societies, organizations or corporations.

No certificate of burial rights shall be issued and no burial rights shall be granted to any association, society, organization or corporation, except for the interment of persons who are members thereof or which desire to provide a place for the interment of persons not members, who are unable to make such provision for themselves. No certificate issued to any such association, society, organization or corporation nor burial rights granted thereby shall be transferred or otherwise disposed of, but such rights shall pass to their successors, trustees or directors.

(Code 1993, § 7-59; Code 2004, § 22-114; Code 2015, § 7-87)

Sec. 7-88. Procedure upon death of individual to whom rights and certificate granted or transferred.

(a) Upon the death of an individual to whom a certificate and burial rights have been issued and granted or upon the death of an individual to whom a certificate and burial rights have been transferred, burial rights in any unused portion of a lot or unused burial space shall pass to:

(1) The person specifically provided for in the will, if the deceased person dies testate making specific provisions in a will for the passage of such rights;

(2) The surviving spouse, if any, if the deceased person does not specifically provide in a will for the passage of such rights or dies intestate; or

(3) Those persons to whom real estate would pass from such deceased person by the laws of descents of the State, if such deceased person dies intestate without a surviving spouse, or dies testate without a surviving spouse and without specifically providing in a will for the passage of such rights.

(b) When such burial rights are held by more than one individual, they shall hold such rights as tenants in common.

(Code 1993, § 7-60; Code 2004, § 22-115; Code 2015, § 7-88)

Sec. 7-89. Rights of successors of individual to whom burial rights granted or transferred.

The successors of an individual to whom burial rights have been granted or transferred shall have all the rights granted by the certificate of burial rights, subject to its terms and conditions, and may apply to the Director for the issuance of a certificate. When such application is made, the director shall issue a certificate to such successors if satisfied that they are the lawful successors to the rights of such individual and upon payment to the City of a certificate fee of $100.00. When it appears to the Director that there is another individual who is the lawful successor or other individuals who are the lawful successors to such burial rights, the Director shall not issue a certificate, except in the names of all such successors.

(Code 1993, § 7-61; Code 2004, § 22-116; Code 2015, § 7-89; Ord. No. 2013-49-82, § 1, 5-28-2013)

Sec. 7-90. Perpetual care of burial spaces and lots.

The Director shall make provision for perpetual care of burial spaces and lots in cemeteries, upon application for such care by the owners of such rights. The application shall be in such form as shall be prescribed by the Director. Such care shall be provided upon the payment to the City of the charges prescribed by the Council therefor in Section 7-92, which may be increased or decreased at any time and from time to time by the council. Upon the payment of such charges for perpetual care, the City shall become obligated to perpetually keep the burial place or lot in good order and appearance insofar as the seasons of the year permit at all times, but shall not be required to make any changes in the burial space or lot in order to improve its appearance.

(Code 1993, § 7-62; Code 2004, § 22-117; Code 2015, § 7-90)

Sec. 7-91. Limited seasonal care of burial spaces and lots.

The Director shall make provision for limited seasonal care of burial spaces and lots in cemeteries upon application for such care made by the owners of such rights. The application shall be in such form as shall be prescribed by the Director. Such care shall be provided upon the payment to the City of the charges prescribed by the Council therefor in Section 7-92, which may be increased or decreased at any time and from time to time by the Council. Upon the payment of such charges for seasonal care, the City shall be obligated to keep the burial space or lot in reasonably good order, but shall not be required to make any changes in the burial space or lot in order to improve its appearance.

(Code 1993, § 7-63; Code 2004, § 22-118; Code 2015, § 7-91)

Sec. 7-92. Charges for care of burial spaces and lots.

(a) Burial rights in and to burial spaces and lots shall be granted by the Director upon payment of the charges prescribed therefor as set out in this section which may be increased or decreased or otherwise modified at any time and from time to time by the City Council, provided that the Director may provide, when requested by a licensed funeral director having a place of business in the City, in the City of Petersburg, or in the counties of Hanover, Henrico and Chesterfield, for deferred payment of burial rights in lots when the payment of such charges is guaranteed, in writing, by the funeral director and an amount not less than one-third of the charges is paid when such charge is presented to the funeral director and the balance of such charges is paid in full within 90 days. No additional interments in a lot shall be made until such charges are paid in full.

(b) Perpetual care and limited seasonal care of burial spaces and lots shall be provided by the Director upon payment of the charges prescribed therefor as set forth in this subsection, which may be increased or decreased or otherwise modified at any time and from time to time by the City Council. The prescribed charges shall be as follows:

(1)	Perpetual care:			
	a.	For a single burial space, the burial rights in and to which were acquired prior to January 5, 1951		$90.00
	b.	For a single burial space, including perpetual care		$1,025.00
	c.	For each lot space, the burial rights in and to which were acquired prior to January 5, 1951, per square foot		$5.25
	d.	For each square foot of the area contained therein, in no case less than		$170.00
	e.	For lot space being offered for sale, including perpetual care and not fronting a driveway or roadway, per square foot		$26.70
	f.	For lot space being offered for sale, including perpetual care and fronting a driveway or roadway and to a depth of 20 feet, per square foot		$28.60
	g.	Lots or burial spaces in historic Shockoe Hill Cemetery, including perpetual care:		
		1.	For double-depth lots being offered for sale more than 200 feet from the grave site of Chief Justice John Marshall or Governor Cabell	$2,600.00

		2.	For a single burial space more than 200 feet from the grave site of Chief Justice John Marshall or Governor Cabell	$1,350.00
		3.	For double-depth lots being offered for sale within 200 feet of the grave site of Chief Justice John Marshall or Governor Cabell	$7,000.00
		4.	For a single burial space within 200 feet of the grave site of Chief Justice John Marshall or Governor Cabell	$5,000.00
	h.	For a single burial space in the children's section or cremains section		$440.00
	i.	For a child or baby space less than 48 inches in length (Department of Social Services) in the children's section of Oakwood, Riverview and Maury cemeteries		$400.00
	j.	Any child requiring an adult grave will be charged for the price of an adult grave		
	k.	For a single adult burial space in the Memorial Park Section		$800.00
(2)	Limited seasonal care:			
	a.	For a single adult burial space (Department of Social Services) in the single grave section of Oakwood, Riverview and Maury cemeteries		$850.00
	b.	Reservation fee (nonrefundable) to hold an adjoining single grave site for up to 90 days following the date of interment, at which time the reserved grave site will be purchased or the reservation will be vacated		$100.00

(c) Charitable, eleemosynary, fraternal, philanthropic or religious organizations that make an initial purchase of 25 or more burial spaces will pay ten percent less per burial space for that initial purchase. Further, such organizations that make subsequent purchases of ten or more burial spaces at a later time than their initial purchase of 25 or more burial spaces will pay ten percent less per burial space for that subsequent purchase.

(Code 1993, § 7-64; Code 2004, § 22-119; Code 2015, § 7-92; Ord. No. 2004-90-119, § 1, 5-24-2004; Ord. No. 2005-99-107, § 1, 5-31-2005; Ord. No. 2006-84-149, § 1, 5-30-2006; Ord. No. 2007-50-118, § 1, 5-29-2007; Ord. No. 2013-49-82, § 1, 5-28-2013; Ord. No. 2017-056, § 1, 5-15-2017; Ord. No. 2019-061, § 1, 5-13-2019)

Sec. 7-93. Use of glass, wire or metal on lots or graves.

It shall be unlawful to use glass, wire or metal on lots or graves, other than nonglass floral containers or a bench on a lot or section where a bench is permitted by regulations.

(Code 1993, § 7-65; Code 2004, § 22-120; Code 2015, § 7-93)

Sec. 7-94. Care of spaces and lots not in perpetual or limited seasonal care.

The owners of burial rights in the cemeteries whose burial spaces or lots are not in perpetual care or limited seasonal care shall keep such burial spaces or lots in good order and repair. Upon the failure, refusal or neglect to keep such burial spaces or lots in good order and repair, the Director may enter upon such burial spaces or lots and do all things necessary to put them in good condition and repair.

(Code 1993, § 7-66; Code 2004, § 22-121; Code 2015, § 7-94)

Secs. 7-95—7-104. Reserved.

ARTICLE IV. OPTIONS OTHER THAN BURIAL

DIVISION 1. GENERALLY

Sec. 7-105. Purpose.

The purpose of this article is to provide for the offering of options other than burial in cemeteries.

(Code 2015, § 7-101; Ord. No. 2015-186-190, § 1, 9-28-2015)

Sec. 7-106. Applicability of other provisions of chapter.

The provisions of Article III of this chapter shall apply to the rights in columbarium niches and memorial sites sold pursuant to this article.

(Code 2015, § 7-102; Ord. No. 2015-186-190, § 1, 9-28-2015)

Sec. 7-107. Duties of Director.

The Director shall issue regulations consistent with this article and any other applicable laws to discharge the duties set forth in this article.

(Code 2015, § 7-103; Ord. No. 2015-186-190, § 1, 9-28-2015)

Secs. 7-108—7-117. Reserved.

DIVISION 2. COLUMBARIA

Sec. 7-118. Meaning of "columbarium."

The term "columbarium" means a vault lined with niches for urns containing cremated remains. The Director shall approve the design, location, and size of each columbarium erected in a cemetery.

(Code 2015, § 7-111; Ord. No. 2015-186-190, § 1, 9-28-2015)

Sec. 7-119. Where columbaria located; fees.

The Director shall erect and maintain at least one columbarium in each of Oakwood Cemetery, Riverview Cemetery, Maury Cemetery, Mt. Olivet Cemetery, and Shockoe Hill Cemetery. The Director may erect and maintain additional columbaria in these cemeteries as needed. In order to purchase rights to a niche in a columbarium, the purchaser shall pay the applicable fee as follows:

(1)	Oakwood, Riverview, Maury, and Mt. Olivet Cemeteries:		
	a.	Upper two levels	$1,395.00
	b.	Middle two levels	$1,595.00
	c.	Lower two levels	$1,195.00
(2)	Shockoe Hill Cemetery:		
	a.	Upper two levels	$1,795.00
	b.	Middle two levels	$1,995.00
	c.	Lower two levels	$1,595.00

(Code 2015, § 7-112; Ord. No. 2015-186-190, §§ 1, 2, 9-28-2015; Ord. No. 2018-083, § 1, 5-14-2018)

Secs. 7-120—7-129. Reserved.

DIVISION 3. SCATTERING GARDENS

Sec. 7-130. Meaning of "scattering garden."

The term "scattering garden" means an area within a cemetery in which cremated remains may be scattered. A scattering garden includes landscaping and a monument or other feature for the memorialization of individuals whose cremated remains have been scattered there. The Director shall approve the design, location, and size of each scattering garden established in a cemetery.

(Code 2015, § 7-121; Ord. No. 2015-186-190, § 1, 9-28-2015)

Sec. 7-131. Where scattering gardens located; fees.

The Director shall establish and maintain scattering gardens in cemeteries as needed. The purchaser shall pay a fee of $195.00 for rights to have an individual's cremated remains scattered in a scattering garden and a fee of $300.00 for an inscription memorializing the individual whose cremated remains are scattered in the scattering

garden.

(Code 2015, § 7-122; Ord. No. 2015-186-190, § 1, 9-28-2015; Ord. No. 2019-062, § 1, 5-13-2019)

Secs. 7-132—7-141. Reserved.

DIVISION 4. MEMORIAL SITES

Sec. 7-142. Memorial sites; fees.

As needed, the Director shall establish and maintain memorial sites within cemeteries at which cremation benches may be installed. The Director shall approve the design, location, and size of each memorial site in a cemetery.

(Code 2015, § 7-131; Ord. No. 2015-186-190, § 1, 9-28-2015)

Sec. 7-143. Cremation benches; fees.

A cremation bench is a granite bench installed at a memorial site in which more than one urn containing cremated remains may be placed. The Director shall approve the design, location, and size of each cremation bench installed at a memorial site in a cemetery. In order to purchase a memorial site and a cremation bench, the purchaser shall pay the applicable fees set forth in this section. In addition, the purchaser shall pay a fee for each inscription on a cremation bench and each inurnment as set forth in this section. The fees to be charged pursuant to this section are as follows:

Fees relating to purchase of memorial site for cremation bench in Oakwood, Riverview, Maury, and Mt. Olivet Cemeteries:		
(1)	Purchase of memorial site	$500.00
(2)	Purchase of cremation bench	$3,295.00
(3)	Inscription of family name plus names of two individuals	$500.00
(4)	Inurnment	$500.00

(Code 2015, § 7-132; Ord. No. 2015-186-190, § 1, 9-28-2015; Ord. No. 2019-062, § 1, 5-13-2019)

Sec. 7-144. Private estates; fees.

A private estate is a small columbarium installed at a memorial site into which urns containing cremated remains and flower vases may be placed. The Director shall approve the design and size of three models of private estates and shall approve the location of each private estate within a cemetery. Private estates may be purchased in Oakwood Cemetery, Riverview Cemetery, Maury Cemetery, and Mt. Olivet Cemetery. In order to purchase a memorial site and a private estate, the purchaser shall pay the applicable fees and, in addition, the purchaser shall pay a fee for each inscription on a private estate as follows:

(1)	In Oakwood, Riverview, Maury, and Mt. Olivet Cemeteries:			
	a.	Model A:		
		1.	Purchase of memorial site	$500.00
		2.	Purchase of two-niche private estate	$2,154.80
	b.	Model B:		
		1.	Purchase of memorial site	$500.00
		2.	Purchase of four-niche private estate	$4,310.00
	c.	Model C:		
		1.	Purchase of memorial site	$500.00

		2.	Purchase of four-niche private estate	$4,586.80
(2)	In Shockoe Hill Cemetery:			
	a.	Model A:		
		1.	Purchase of memorial site	$500.00
		2.	Purchase of two-niche private estate	$2,154.80
	b.	Model B:		
		1.	Purchase of memorial site	$1,000.00
		2.	Purchase of four-niche private estate	$4,310.00
	c.	Model C:		
		1.	Purchase of memorial site	$1,000.00
		2.	Purchase of four-niche private estate	$4,586.80
(3)	Inscriptions:			
	a.	Family name		$195.00
	b.	Each individual name		$250.00

(Code 2015, § 7-133; Ord. No. 2015-186-190, § 1, 9-28-2015)

Chapter 8

CITY-OWNED REAL ESTATE*

***Charter reference—**Authority of City to construct buildings, § 2.03(f); authority to sell property, § 2.03(g); authority to control and regulate use of City property, § 2.03(h); authority to own parking facilities, § 2.03(k); authority to own stadia, arenas, etc., § 2.03(m); use of municipal buildings or structures for private purposes, § 2.03.2; acquisition of property for public purposes, Ch. 18.

Cross reference—Administration, Ch. 2; general functions of Department of Public Works, § 2-427; Department of Parks, Recreation and Community Facilities, § 2-483 et seq.; dogs in parks and recreation areas, §§ 4-245, 4-246; businesses and business regulations, Ch. 6; City cemeteries, § 7-53 et seq.; disposition of funds from real estate and certain insurance proceeds, § 12-42; libraries, Ch. 18; possession of open alcoholic beverage containers in public parks, playgrounds and streets, § 19-3; drinking alcoholic beverages or offering to another in public places streets, § 19-4; ports and harbors, Ch. 20; streets, sidewalks and public ways, Ch. 24.

State law reference—Police jurisdiction over city buildings, Code of Virginia, § 15.2-1124; city buildings, etc., generally, Code of Virginia, § 15.2-1638 et seq.; sale of public property, Code of Virginia, §§ 15.2-1800 et seq., 15.2-2100 et seq.; eminent domain, Code of Virginia, § 15.2-1901 et seq.; vacation of streets, Code of Virginia, § 15.2-2270 et seq.

ARTICLE I. IN GENERAL

Sec. 8-1. Report and recommendations on acquisition of real estate.

The Chief Administrative Officer shall prepare and submit to the Mayor and the City Council a report of all of the transactions relating to the acquisition of real estate by the City during the six months preceding January 1 and July 1 of each year.

(Code 1993, § 8-1; Code 2004, § 26-1; Code 2015, § 8-1; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-282-270, § 3, 12-12-2005)

Sec. 8-2. Authority of Chief Administrative Officer to lease real estate; terms and conditions of lease.

(a) No City-owned real estate shall be leased, whether at-will or otherwise, for a period of longer than 90 calendar days unless the terms of such lease have first been approved by an ordinance adopted by the Council. The Mayor may introduce an ordinance to direct the Chief Administrative Officer to execute such a lease for specific City-owned real estate. The Chief Administrative Officer is hereby authorized to lease, for a period of no longer than 90 calendar days, real estate owned by the City or any part thereof not devoted to and not immediately needed for public use, upon the following terms and conditions:

(1) The tenants shall pay rent to the City for the use and occupancy of each parcel at an annual rate commensurate with the fair rental value of the parcel or otherwise as determined by the Chief Administrative Officer, which shall be due and payable monthly in advance.

(2) The tenants shall have exclusive possession of the real estate, except that the Chief Administrative Officer, or a designee thereof, shall have the right to enter such real estate at any time for the inspection thereof or for making such repairs to or alterations of any buildings or structures on the real estate, as the Chief Administrative Officer may deem advisable. However, the City shall not be obligated to maintain, repair or replace any building or structure or any fixture, equipment or facility which may be on or used in connection with the use of the real estate or any part thereof.

(3) The tenants shall maintain the real estate in good order and state of repair and shall make such repairs thereto as shall from time to time be required by the Chief Administrative Officer or an authorized representative.

(4) The tenants shall provide at their cost and expense all services required for their use and occupancy of the real estate, and the City shall not be obligated to provide for such services. However, where a single parcel of real estate is being leased to two or more tenants and such real estate has only one water, gas or electric meter or only one heating system, the Chief Administrative Officer is authorized to pay for the services where there is only one water, gas or electric meter or only one heating system and then to

prorate the costs of the services between the tenants involved and add the net costs of the services to the fair rental value of the parcel as determined by the Chief Administrative Officer under subsection (a)(1) of this section.

(5) The tenants shall remove all of their property from the real estate, including that attached to the freehold, upon the termination of the lease. Upon the tenants' failure, refusal or neglect to do so, the Chief Administrative Officer, or a designee thereof, may remove such property from the real estate at the cost and expense of the tenants, without liability to the tenants for damages that may directly or indirectly result therefrom, or may allow such property to remain on the real estate, and fee simple title to the property shall vest in the City.

(6) The tenants shall not transfer or assign the lease nor sublet the real estate or any part thereof without the approval of the Chief Administrative Officer.

(7) The tenants shall surrender possession of the real estate to the City upon termination of the lease and shall leave the premises in the same or as good condition as when entered upon, damage beyond the control of the tenants and reasonable wear and tear excepted.

(8) The tenants shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to themselves and others in person or property growing out of the making of the lease and their use and occupancy of the real estate. If suit shall be brought against the City, either independently or jointly with the tenants on account thereof, the tenants will defend the City in any such suit; if a final judgment is obtained against the City, either independently or jointly with the tenants, the tenants will pay such judgments with all costs and hold the City harmless therefrom.

(9) The tenants shall waive the benefit of the homestead exemption laws of the State as to all obligations created under the lease and shall agree to pay all expenses incurred in collecting the obligations, including 20 percent attorney's fees if the obligations shall not be paid when due.

(10) The use and occupancy of the premises by the tenants shall be at the will of either of the parties to the lease and may be terminated by the Chief Administrative Officer or an authorized representative or by the tenants at any time upon due notice. Upon the termination of the lease by the City, the tenants shall be refunded the rent paid for the remainder of the month from the day such termination becomes effective.

(11) Whenever any building or structure which is a part of the real estate is rendered untenable by reason of force majeure, the lease shall terminate.

(b) For each lease entered into pursuant to the provisions of subsection (a) of this section for which the terms of such lease have not first been approved by an ordinance adopted by the Council, the following conditions shall apply:

(1) Within five working days after the execution by the Chief Administrative Officer of such a lease, the Chief Administrative Officer shall cause a complete copy of such executed lease to be delivered to each member of the council, which delivery may be by electronic means.

(2) No such lease shall be extended for a total of more than 30 additional calendar days until the Council has adopted a resolution approving the extension, which resolution must contain the location of the leased premises, the name of the tenant, the original duration of the lease, the duration of the extension, and the amount of rent.

(3) Once such a lease has terminated, the tenant shall not be deemed to hold over, and no lease for the same premises to the same tenant may have a term commencing less than 90 calendar days after such termination unless the terms of such lease have first been approved by an ordinance adopted by the Council.

(4) Whenever the Council determines that real estate leased by the Chief Administrative Officer pursuant to subsection (a) of this section where the terms of such lease have not first been approved by an ordinance adopted by the Council or real estate leased pursuant to an at-will lease is needed for public use, the Chief Administrative Officer shall cause such lease to be terminated and the real estate devoted to that

public use for which the council has determined it is needed. The Council's determination shall be expressed by the adoption of a resolution.

(c) Notwithstanding any other provision of law to the contrary, Bandy Field Park, Lewis G. Larus Park, Crooked Branch Ravine Park and City-owned real estate that has been designated as part of the James River Park System shall not be leased for any purpose that would result in or involve any development of any part of these public parklands.

(Code 1993, § 8-2; Code 2004, § 26-2; Code 2015, § 8-2; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-283-271, § 1, 12-12-2005; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2014-205-2015-32, § 1, 2-23-2015)

Sec. 8-3. Insurance required of certain permit holders using community facilities.

Every person to whom a permit is granted by the Director of Parks, Recreation and Community Facilities under authority conferred in Article IV, V, or VI of this chapter to use any facility under the supervision of the Director of Parks, Recreation and Community Facilities for any purpose shall insure liability for injury or death and property damage in connection with such person's use of such facility in an amount of not less than $1,000,000.00 to cover the injury to or death of one person in any one occurrence and not less than $1,000,000.00 to cover the injury or death of more than one person in any one occurrence, together with property damage of not less than $1,000,000.00. The City shall be named as an additional insured under the insurance contract. Premiums chargeable for the insurance contract shall be paid by such person, and the contract shall be kept in full force and effect during the term of the permit. The contract of insurance shall contain a provision that it shall not be canceled or terminated or otherwise allowed to expire during the term of the permit. The insurance contract shall be approved as to form by the City Attorney. The insurance contract shall be provided and shall be in force at the time the permit is issued.

(Code 1993, § 8-5; Code 2004, § 26-3; Code 2015, § 8-3)

Sec. 8-4. Corporate surety bond required of certain permittees using community facilities.

The Director of Parks, Recreation and Community Facilities may require every person to whom a permit is granted to use any facility under the supervision of the Director to furnish and deliver to the City at the time the permit is issued a corporate surety bond, payable to the City, in such amount as shall be required by the Director of Parks, Recreation and Community Facilities, conditioned upon the payment by such person of all sums of money due the City for the use of such facility by such person and upon the restoration or repair of all property of the City damaged or destroyed as a result of or incident to such use of the facility. The bond shall be approved as to form by the City Attorney. The cost of the bond shall be paid by such person, and it shall be kept in full force and effect during the term of the permit. The bond shall contain a provision that it shall not be canceled or terminated or otherwise allowed to expire during the term of the permit.

(Code 1993, § 8-6; Code 2004, § 26-4; Code 2015, § 8-4)

Sec. 8-5. Catering privileges at facilities.

Every person, including any concessionaire of the City, who caters any event held in any facility assigned to the Department of Parks, Recreation and Community Facilities shall pay to the City a fee of ten percent of the gross charges made for catering such event. The term "gross charges" shall not include any sales tax which may be due and payable on such catered services; that is, gross charges shall be gross receipts, less sales tax.

(Code 1993, § 8-7; Code 2004, § 26-5; Code 2015, § 8-5)

Sec. 8-6. Naming of buildings acquired for public use.

Upon determining that a building will be constructed, purchased or otherwise acquired by the City for public use, the City Council or a designated standing committee of the Council will accept recommendations from the Chief Administrative Officer, the proposed using agency or the public at large of suggested names for such building. The Council shall, within its sole discretion, adopt by resolution an appropriate name for the newly constructed or acquired public building.

(Code 1993, § 8-9; Code 2004, § 26-6; Code 2015, § 8-6; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 8-7. Naming of City facilities—Purpose; definition of "City facility"; applicability.

(a) The purpose of this section through Section 8-10 is to provide a systematic and consistent approach to

considering, approving and implementing the naming or renaming of City buildings, streets, alleys, bridges, parks, recreation facilities and other public places owned by the City of Richmond.

(b) For the purpose of this section through Section 8-10, the term "City facility" means any street, bridge, building, park, recreation or community facility or place as well as any natural feature and any other forms of historical interpretation or exhibit owned by the City of Richmond.

(c) This section through Section 8-10 do not apply to (i) street names designated through the subdivision or other land use processes pursuant to Chapter 25 or 30 or (ii) any City-owned building leased by the City to a tenant when the lease grants the tenant the right to transfer naming rights to that building.

(Code 2004, § 26-7; Code 2015, § 8-7; Ord. No. 2004-35-64, § 1(8-15), 4-13-2004; Ord. No. 2015-253, § 1, 1-11-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 8-8. Naming of City facilities—Policy.

All naming or renaming of City facilities shall be in accordance with the following policies and considerations:

(1) The City Council may, at its sole discretion, approve or disapprove by resolution any and all proposals for naming or renaming City facilities.

(2) All citizens, especially parties affected by the naming or renaming, shall have the opportunity to participate in a public hearing on the naming or renaming resolution.

(3) Once selected by the City Council for a City facility, a name shall be bestowed with the intention that it will be permanent for that City facility.

(4) The names bestowed by the City Council shall be consistent with the values and character of the community served by the City facility.

(5) The City Council shall give due consideration to the potential financial impact involved in changing the addresses of abutting private and public properties related to any proposal to rename a City road or street.

(6) Street names should not be changed more frequently than once every 100 years.

(Code 2004, § 26-8; Code 2015, § 8-8; Ord. No. 2004-35-64, § 1(8-16), 4-13-2004)

Sec. 8-9. Naming of City facilities—Criteria.

Because the naming or renaming of City facilities should be approached cautiously with forethought and deliberation, the evaluation and selection of names for City facilities shall comply with the criteria set forth below:

(1) In all cases, City Council shall have the prerogative of accepting or rejecting a naming or renaming proposal.

(2) Once the name of a City facility has been changed by City Council, renaming should be strongly resisted.

(3) Names which could be construed as advertising a particular business shall be avoided.

(4) Cumbersome, corrupted, or modified names and discriminatory or derogatory names from the point of view of race, sex, color, creed, political affiliation or other social factors shall be avoided.

(5) Proposed names shall be based upon a relationship to:

a. Individuals who have made major and distinct social, cultural, historical, or civic contributions;

b. Neighborhood or geographic identification;

c. Historical figures, places, events or other instances of cultural significance; and

d. Natural or geological features.

(6) City facilities shall be named after individuals only and not after multiple persons, groups or organizations.

(7) Preference shall be given to the names of persons who are natives of the City of Richmond or who resided in the City during the time of their contributions.

(8) With rare exception for individuals whose service or contributions are extraordinary, memorials shall only be made recognizing persons who have been deceased for five years or more in order to ensure that actions being recognized stand the test of time.

(9) The naming of multiple facilities after the same individual shall be avoided.

(10) Only surnames should be used, unless additional identification is necessary to prevent duplication.

(11) Historical names placed on designated landmarks listed on City, State or National Registers of Historic Places shall not be changed.

(12) Street names, plats, specific sites and places and natural features indicated on general usage maps for 50 years or more (i.e., age criteria applied by the National Register of Historic Places) should only be changed under exceptional circumstances.

(13) In the development of new City facilities, address designations shall be used until City Council approves a naming proposal. To the extent possible, names shall be designated before opening new City facilities to public use.

(Code 2004, § 26-9; Code 2015, § 8-9; Ord. No. 2004-35-64, § 1(8-17), 4-13-2004)

Sec. 8-10. Naming of City facilities—Procedures.

The submission, evaluation, approval and implementation of proposals for naming or renaming City facilities shall comply with the procedures set forth below:

(1) All requests for naming or renaming a City facility shall be made in writing and indicate the specific City facility proposed for naming or name changes. Such written request, together with all other documentation required by this section, shall be submitted to the Chief Administrative Officer or to the Council member who patrons a naming resolution. Each request shall be accompanied by the payment of a fee in an amount set by the Chief Administrative Officer to cover the reasonable cost of administering these procedures.

(2) At the request of a citizen or interested group, either the Mayor or a Council member may introduce a resolution to name or rename a City facility.

(3) Within 90 days of the introduction of a naming resolution, the Chief Administrative Officer shall prepare and submit to the City Council a staff report that evaluates whether or not the proposal is consistent with the policies and criteria herein, and that indicates the financial impact of implementing the proposed naming or renaming.

(4) In cases where citizens or interested groups request to change the name of a street, which has an existing, approved name, the proponents of such name change shall file with their request a petition of the affected property owners. The petition must bear the signatures of the owners of at least 51 percent of the lots, tracts, or parcels of property (excluding Federal, State, public utilities and municipal lands), which abut the street to be renamed. The percentage of owners shall be expressed in terms of both number of properties and land area.

(5) The City Council, upon receipt of the staff report, shall conduct a public hearing to review recommendations, suggestions and obtain public comments from affected parties prior to any final action on a naming resolution.

(6) The City Council may, at its sole discretion, approve or disapprove any and all proposals for naming or renaming a City facility.

(7) The Chief Administrative Officer shall notify those who requested the name or name change as well as appropriate offices, departments and agencies of the Council's action on a proposed resolution. Upon the approval of a resolution, the Chief Administrative Officer shall take all action to implement the naming or name changes of City facilities, including, but not limited, to changing stationery and signs and the recovery of the costs thereof.

(8) The provisions of this procedure shall not apply to the application of recognition for benches, trees, refuse cans, flagpoles, water fountains, or other similar items of personal property.

(Code 2004, § 26-10; Code 2015, § 8-10; Ord. No. 2004-35-64, § 1(8-18), 4-13-2004; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 8-11. Schools.

All buildings, grounds and property of every description used for the purpose of public education, and purchased with money appropriated by the City Council, or received from any other source, unless on different conditions, shall be the property of the City.

(Code 1993, § 8-4; Code 2015, § 8-11; Code 2004, § 26-11)

Sec. 8-12. Use of City-owned real estate.

(a) *Authority.* Pursuant to Sections 2.03(h) and 4.02 of the City Charter, the power to control and regulate the use and management of all City-owned real estate is vested in the City Council.

(b) *Purpose.* The purpose of this section is to provide for the:

(1) Use and management of City-owned real estate for which no other ordinance provides; and

(2) Change in use or management of City-owned real estate for which no other ordinance provides.

(c) *Use.*

(1) Where any provision of this Code or any other ordinance provides for a specific use for City-owned real estate, that use shall continue until such use is modified by ordinance.

(2) No use of City-owned real estate shall be changed except by ordinance adopted by the City Council.

(3) No City-owned real estate shall be used in a manner contrary to a use provided for by ordinance adopted by City Council.

(d) *Exceptions.*

(1) This section shall not apply to City-owned real estate designated for use as a community garden pursuant to the provisions of Article VIII, Division 5 of this chapter.

(2) Notwithstanding subsection (c) of this section or any other provision of this Code to the contrary, no City-owned real estate shall be used as a cold weather shelter for homeless persons until:

a. The Chief Administrative Officer has submitted to the City Council:

1. Evidence that the Chief Administrative Officer has caused to be held one or more public meetings to allow public comment on the proposed use of such City-owned real estate as a cold weather shelter for homeless persons, together with the substance of any public comment made at any such meetings; and

2. A written plan for operating a cold weather shelter on the City-owned real estate proposed to be used as a cold weather shelter for homeless persons that includes the specific periods of time during which such City-owned real estate is proposed to be used as a cold weather shelter for homeless persons; and

b. The City Council has approved the use of such City-owned real estate as a cold weather shelter for homeless persons in the manner provided by subdivision (2) of subsection (c) of this section.

(Code 2004, § 26-12; Code 2015, § 8-12; Ord. No. 2007-161-157, § 1, 6-25-2007; Ord. No. 2011-50-45, § 2, 3-28-2011; Ord. No. 2018-287, § 1, 2-11-2019)

Sec. 8-13. Workforces.

Pursuant to Code of Virginia, § 53.1-128, there is hereby established a workforce in the City under the conditions prescribed in this section. The workforce shall be authorized to work on such public property or works owned, leased or operated by the City as may be identified in writing by the Chief Administrative Officer and transmitted to the Sheriff. Those persons liable to work in the workforce pursuant to Code of Virginia, § 53.1-128 shall work in the workforce, and those persons who may work in the workforce on a voluntary basis pursuant to Code of Virginia, § 53.1-128 may work in such workforce under the conditions set forth pursuant to Code of

Virginia, § 53.1-128. The Sheriff shall approve the use of the workforce and shall supervise the workforce, provided that such conditions for workforce members working on public property or works as may be prescribed by the Chief Administrative Officer are met.

(Code 2004, § 26-13; Code 2015, § 8-13; Ord. No. 2011-21-30, § 1, 2-28-2011)

Sec. 8-14. Grant of licenses for space in parking facilities.

The Chief Administrative Officer, or the written designee thereof, on behalf of the City, may enter into and, from time to time, modify license agreements by which the City licenses to parties other than the City parking spaces within City-owned parking facilities not used for City employee parking, provided that:

(1) The license agreement is terminable at-will by the City;

(2) The fees or rates charged under the license agreement are in accordance with the provisions of Section 12-119;

(3) The Chief Administrative Officer or the written designee thereof has approved the license agreement, and any amendment thereto, as to terms; and

(4) The City Attorney or the designee thereof has approved the license agreement, and any amendment thereto, as to form.

(Code 2004, § 26-14; Code 2015, § 8-14; Ord. No. 2013-28-31, § 1, 3-11-2013; Ord. No. 2014-66-116, § 3, 5-27-2014)

Secs. 8-15—8-31. Reserved.

ARTICLE II. ACQUISITION OF REAL ESTATE

Sec. 8-32. Acceptance of dedications of real estate for construction, reconstruction and maintenance of streets and alleys.

The Chief Administrative Officer is hereby authorized to accept dedications of and to acquire by purchase for a sum not exceeding $10,000.00 real estate or interests, rights, easements or estates therein for the construction, reconstruction and maintenance of streets and alleys upon the following terms and conditions:

(1) The real estate or interests, rights, easements or estates in the land shall be granted and conveyed by deed satisfactory to the City Attorney.

(2) The grantor in the deed conveying such real estate or interests, rights, easements or estates therein shall, for the grantor and any grantees, devisees or assigns, discharge and release the City from damages that any such persons may sustain as a result of the change in the grade of such street or alley and the use thereof for such purpose.

(3) No such real estate or interests, rights, easements or estates therein shall be acquired until and unless the general location, character and extent thereof has been submitted to and approved by the Planning Commission, as provided in Section 17.07 of the Charter.

(Code 1993, § 8-21; Code 2004, § 26-41; Code 2015, § 8-32; Ord. No. 2004-360-330, § 1, 12-13-2004)

Cross reference—Streets, sidewalks and public ways, Ch. 24.

Sec. 8-33. Acquisition of utility easements.

The Chief Administrative Officer is hereby authorized to accept dedications of easements in land and to acquire by purchase for a sum not exceeding $10,000.00 easements in land for the construction, reconstruction, maintenance, repair and operation of utility service lines, including sanitary, stormwater, sewage and wastewater, drainage and flood control facilities, gas and water mains or lines and connections thereto, overhead, surface, including ditches, and underground, upon the following terms and conditions:

(1) The easements in the land shall be granted and conveyed by deeds satisfactory to and approved as to form by the City Attorney; the City Attorney shall have discretion to approve such deeds of easement notwithstanding the fact that a hold harmless provision is contained therein.

(2) The City will restore or replace the land and the surface thereof within the boundaries of the easements

to its original condition as far as practicable upon the completion of the construction, reconstruction, maintenance or repair of the utilities, facilities and connections thereto.

(3) The acquisition of the easements and their general location, but not their character and extent, shall be approved by the Planning Commission as provided in Section 17.07 of the Charter.

(Code 1993, § 8-22; Code 2004, § 26-42; Code 2015, § 8-33; Ord. No. 2004-360-330, § 1, 12-13-2004)

Cross reference—Utilities, Ch. 28.

Secs. 8-34—8-54. Reserved.

ARTICLE III. SALE OF REAL ESTATE*

***Charter reference—**Approval by Planning Commission of real estate or overruling thereof by City Council, § 17.07.

Sec. 8-55. Applicability of article; role of Chief Administrative Officer.

(a) *Applicability of article.* No City-owned real estate shall be sold except in accordance with this article and any applicable provisions of the Constitution of Virginia, the Code of Virginia and the Charter of the City of Richmond.

(b) *Role of Chief Administrative Officer.* The Chief Administrative Officer may delegate some or all of the duties required of him by this article to one or more officers or employees who report to the Chief Administrative Officer.

(Code 2004, § 26-76; Code 2015, § 8-55; Ord. No. 2005-282-270, § 2, 12-12-2005; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-56. Records and reporting.

(a) *Definition.* The word "parcel," when used in this section, means a unit of City-owned real estate identified with its own unique tax parcel number in the City Assessor's records.

(b) *City-owned real estate and surplus real estate.* The Chief Administrative Officer shall prepare, maintain, and publish, by July 1, 2018, and by July 1 of each year thereafter, a read-only, searchable list on the City's website records that enumerate:

(1) All parcels.

(2) Parcels currently used by the City and a description of such use.

(3) Vacant parcels, as reflected in the City Assessor's records.

(4) Parcels for which the City has solicited offers, bids, or proposals pursuant to the applicable provisions of this article.

(5) Parcels operated and declared by the School Board to be surplus real estate pursuant to Code of Virginia, § 22.1-129.

(6) Parcels declared by the City to be surplus real estate pursuant to Section 8-60.

(7) Parcels located within an enterprise zone established pursuant to state law, an Arts and Cultural District, a Commercial Area Revitalization Effort Area, an Extra Commercial Area Revitalization Effort Area, a redevelopment or conservation area, or a rehabilitation district.

(c) *Biennial recommendations.* By October 1, 2018, and by October 1 of every even numbered year thereafter, the Chief Administrative Officer shall provide to the Council a real estate strategies plan consisting of recommendations for the sale and disposition of those parcels that the Chief Administrative Officer has determined are no longer needed for municipal or public purposes. In addition, the plan must identify parcels that the Chief Administrative Officer proposes to use to facilitate development within the areas enumerated in subsection (b)(7) of this section and to facilitate the development of affordable housing. Upon the Council's adoption of a resolution approving the plan, the parcels recommended by the Chief Administrative Officer for sale or other disposition in such resolution shall be deemed surplus real estate and, notwithstanding any other provision of this Code to the contrary, the Chief Administrative Officer may solicit offers, bids, and proposals in accordance with this article for

the purchase of the parcels in accordance with the plan adopted by the Council. By October 1, 2019, and by October 1 of every odd numbered year thereafter, the Chief Administrative Officer shall submit a report on progress with regard to the recommendations set forth in the plan to the Council.

(d) *Annual report of real estate sales transactions*. The Chief Administrative Officer shall prepare annually a report of all of the transactions relating to the disposal of parcels by the City during the 12 months preceding July 1 of each year. The Chief Administrative Officer shall submit such report to the Land Use, Housing and Transportation Standing Committee of the Council or any successor committee thereof by September 1 of each year.

(Code 2004, § 26-77; Code 2015, § 8-56; Ord. No. 2005-282-270, § 2, 12-12-2005; Ord. No. 2017-170, § 1, 9-25-2017)

Sec. 8-57. No sale of parks.

Notwithstanding any other provision of law to the contrary, no City-owned real estate that has been designated as a City park shall be declared surplus property of the City under any circumstances. The Chief Administrative Officer shall take all appropriate measures to ensure that no City-owned real estate designated as a City park is declared surplus property of the City under any circumstances.

(Code 2004, § 26-78; Code 2015, § 8-57; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-58. Disposition of unsolicited offer.

(a) *Receipt of offer*. The Chief Administrative Officer shall prepare policies and procedures, and from time to time, as necessary, any modifications thereto, for the submission of unsolicited offers to purchase City-owned real estate in accordance with this article. The Chief Administrative Officer shall publish such policies and procedures, and any modifications thereto, on the City's website. If an unsolicited offer is made to purchase City-owned real estate in compliance with the policies and procedures published by the Chief Administrative Officer in accordance with this section, the Chief Administrative Officer shall immediately bring such offer to the attention of the Mayor and the members of the Council.

(b) *Requiring deposit from offeror*. Upon the introduction of an ordinance to direct the sale of real estate to an offeror, the Chief Administrative Officer shall require a deposit from the offeror in accordance with Section 8-59 and shall require the offeror to execute a purchase agreement.

(c) *Council action on offer*. No ordinance to direct the sale of real estate to an offeror who has submitted an unsolicited offer may be introduced until the Council has adopted a resolution declaring such real estate to be surplus as described in Section 8-60. The Council shall not act upon an unsolicited offer in accordance with Section 8-65 and other applicable provisions of this article until the Chief Administrative Officer first has proceeded in accordance with either Section 8-61 or Sections 8-62 and 8-63.

(Code 2004, § 26-79; Code 2015, § 8-58; Ord. No. 2005-282-270, § 2, 12-12-2005; Ord. No. 2017-170, § 1, 9-25-2017; Ord. No. 2017-069, § 1, 11-13-2017)

Sec. 8-59. Deposit.

No ordinance directing the sale of City-owned real estate to a purchaser pursuant to any offer, bid or proposal under this article shall be adopted unless and until the purchaser has furnished the Chief Administrative Officer with a deposit in the form of a certified or cashier's check in an amount equal to ten percent of the proposed purchase price or $100.00, whichever is greater, at the time such offer, bid or proposal is made. The proceeds of the certified or cashier's check shall be applied to the purchase price of the City-owned real estate if the Council accepts the offer, bid or proposal. The City may retain the proceeds of the check if the offer, bid or proposal is withdrawn before the evaluation of bids or proposals or the final action of the Council on the ordinance to direct the sale of the real estate to the purchaser. However, the City shall not forfeit or waive any other remedies or rights the City may have otherwise by retaining the proceeds of the check. At the time the Council either accepts an offer, bid or proposal or rejects all offers, bids or proposals, the check submitted by each unsuccessful offeror, bidder or proposer shall be returned to that offeror, bidder or proposer.

(Code 2004, § 26-80; Code 2015, § 8-59; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-60. Declaration of real estate as surplus.

No offer, bid or proposal for the purchase of City-owned real estate shall be sought by solicitation, whether by invitation for bids or request for proposals, or auction unless and until the Council shall first have adopted a resolution declaring such real estate to be surplus real estate and authorizing the seeking of offers, bids or proposals therefor by solicitation or auction.

(Code 2004, § 26-81; Code 2015, § 8-60; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-61. Solicitation of offers by invitation for bids.

(a) *Invitation for bids.* If the Council, or the Chief Administrative Officer when authorized by resolution of the Council or upon receipt of an unsolicited offer to purchase City-owned real estate, determines that it is in the best interests of the City to sell surplus real estate with regard to price only, the Chief Administrative Officer shall invite bids for such real estate. All invitations for bids shall:

(1) Be expressly conditioned on Council approval of the sale of the real estate to the successful bidder in accordance with Section 8-65;

(2) Provide that bids will be evaluated solely on the basis of the price stated in the bid;

(3) Require that each bid be received by the Chief Administrative Officer no later than a specifically stated date and hour;

(4) Require that each bid be accompanied by a deposit in accordance with Section 8-59; and

(5) Clearly state the requirements of Section 8-67.

(b) *Solicitation.* All invitations for bids shall be initiated by:

(1) Publication on the City's website; and

(2) Such other means as to provide reasonable notice of the invitation for bids to the maximum number of persons that can be reasonably anticipated to submit bids in response to the particular invitation for bids.

(c) *Acceptance or rejection of bids.* Once the date and hour for the receipt of bids has passed and the bids have been evaluated, the Mayor may introduce an ordinance directing the sale of the real estate to the bidder whose bid complies with the conditions of this section and offers the highest price for the City-owned real estate. No other criteria shall be considered in evaluating bids solicited under this section. In the alternative, the Mayor may introduce a resolution rejecting all of the bids received.

(Code 2004, § 26-82; Code 2015, § 8-61; Ord. No. 2005-282-270, § 2, 12-12-2005; Ord. No. 2017-069, § 1, 11-13-2017)

Sec. 8-62. Solicitation of offers by request for proposals—Generally.

(a) *Request for proposals.* If the Council, or the Chief Administrative Officer when authorized by resolution of the Council or upon receipt of an unsolicited offer to purchase City-owned real estate, determines that it is in the best interests of the City to sell surplus real estate with regard to factors other than price, but which may include price, the Chief Administrative Officer shall request proposals for the real estate. All requests for proposals shall:

(1) Be expressly conditioned on Council approval of the sale of the real estate to the successful proposer in accordance with Section 8-65;

(2) Set forth in detail the specific evaluation factors upon which the proposals received pursuant to that request will be evaluated;

(3) Require that each proposal be received by the Chief Administrative Officer no later than a specifically stated date and hour;

(4) Require that each proposal be accompanied by a deposit in accordance with Section 8-59;

(5) Clearly state the requirements of Section 8-67; and

(6) Be submitted in draft form prior to solicitation to the Land Use, Housing and Transportation Standing Committee of the Council or any successor committee thereof and incorporate any additional evaluation factors that such committee may deem appropriate.

(b) *Solicitation.* All requests for proposals shall be solicited by:

(1) Publication on the City's website; and

(2) Such other means as to provide reasonable notice of the request for proposals to the maximum number of persons that can be reasonably anticipated to submit proposals in response to the particular request for proposals.

(Code 2004, § 26-83; Code 2015, § 8-62; Ord. No. 2005-282-270, § 2, 12-12-2005; Ord. No. 2017-069, § 1, 11-13-2017)

Sec. 8-63. Solicitation of offers by request for proposals—Evaluation of proposals.

(a) *Evaluation factors.* Each request for proposals may be evaluated based on any or all of the following evaluation factors, provided such evaluation factors are enumerated in the request for proposals:

(1) The proposed use of the real estate;

(2) The financial ability of the proposer to provide for the proposed use of the real estate;

(3) The past experience of the proposer in the development and use of properties for uses similar to the proposed use;

(4) The effect of the proposed use of the real estate on other properties;

(5) The compatibility of the proposed use of the real estate with the City's master plan;

(6) The price the proposer offers to pay for the real estate; and

(7) Such other evaluation factors as the Land Use, Housing and Transportation Standing Committee of the Council or its successor Committee may deem appropriate and as the Chief Administrative Officer may deem appropriate when evaluation factors deemed appropriate by the Chief Administrative Officer do not conflict with evaluation factors deemed appropriate by the Land Use, Housing and Transportation Standing Committee of the Council or its successor committee.

(b) *Evaluation process.* The Chief Administrative Officer shall evaluate all proposals based solely upon all of the specific criteria enumerated in the request for proposals. The Chief Administrative Officer shall complete this evaluation within a reasonable period of time following receipt of all of the proposals and report the results of his evaluation both to the Mayor and to the Council at the same time.

(c) *Acceptance or rejection of proposals.* Once the date and hour for the receipt of proposals has passed and the proposals have been evaluated, the Mayor may introduce an ordinance directing the sale of the real estate to the proposer whose proposal complies with the conditions set forth in Section 8-62 and is determined based on the evaluation factors stated in the request for proposals to be in the best interests of the City. In the alternative, the Mayor may introduce a resolution rejecting all of the proposals received.

(Code 2004, § 26-84; Code 2015, § 8-63; Ord. No. 2005-282-270, § 2, 12-12-2005; Ord. No. 2017-069, § 1, 11-13-2017)

Sec. 8-64. Auction of surplus real estate.

If the Council, or the Chief Administrative Officer when authorized by resolution of the Council, determines that it is in the best interests of the City to sell specific surplus real estate by auction, the Chief Administrative Officer shall offer such surplus real estate for sale at public auction through a qualified auctioneer with whom the City has contracted for the sale of surplus real estate. The Chief Administrative Officer shall ensure that notice of such public auction is given by:

(1) Publication on the City's website; and

(2) Such other means as to provide reasonable notice of the public auction to the maximum number of persons that can be reasonably anticipated to participate in such public auction.

(Code 2004, § 26-85; Code 2015, § 8-64; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-65. Action of council.

(a) *Requirement for Council action.* No City-owned real estate shall be sold unless and until the Council has declared the real estate to be surplus real estate and adopted an ordinance directing the sale of the real estate to the purchaser.

(b) *Contents of ordinance directing sale of real estate.* Any ordinance directing the sale of surplus real estate to a purchaser shall contain the following information in the text of the ordinance:

(1) Sufficient information to identify the real estate being sold;

(2) The name of the purchaser;

(3) The amount such purchaser proposes to pay for the real estate;

(4) Any conditions of the purchase that the patron deems appropriate; and

(5) Either a declaration that the real estate being sold is surplus real estate or a reference to a prior resolution declaring such real estate to be surplus real estate.

Such ordinance shall direct the Chief Administrative Officer to execute the deed, which must first be approved as to form by the City Attorney, and any other documents necessary to consummate the sale of the real estate on behalf of the City.

(c) *Options.* With regard to the sale of surplus real estate by any means authorized under this article, the Council may take action to do any of the following:

(1) Authorize the sale of City-owned real estate to the purchaser recommended by the patron of the ordinance directing the sale of real estate to the purchaser by adopting such ordinance, which the Council may, if it chooses, amend to add, modify or remove conditions imposed on the purchase as permitted by the article;

(2) Refuse to authorize the sale of City-owned real estate to the purchaser recommended by the patron of the ordinance directing the sale of real estate to the purchaser by rejecting such ordinance; or

(3) Reject all responses to the solicitation and direct the Chief Administrative Officer to issue a new solicitation for the City-owned real estate by adopting a resolution to that effect.

(d) *Considerations by Council.* The Council may consider any of the following before exercising any of the options in subsection (c) of this section:

(1) The amount of the offer, bid or proposal;

(2) The amount at which the City Assessor has appraised the property;

(3) The tax status and financial ability of the offeror, bidder or proposer;

(4) The amounts of any other appraisals of the property;

(5) The current use of the property;

(6) The offeror's proposed use of the property;

(7) The effect of the offeror's proposed use on other properties in the vicinity;

(8) Any evaluation factors in a request for proposals, if applicable;

(9) The conditions, if any, to be imposed on the purchase; and

(10) Any other considerations the Council deems relevant.

(Code 2004, § 26-86; Code 2015, § 8-65; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-66. Effect of ordinance directing sale of real estate.

An ordinance directing the sale of real estate to a purchaser shall be deemed to require the conveyance of the real estate unless the purchaser does not comply with Section 8-67 or any condition set forth in the ordinance. If the purchaser of real estate set forth in the ordinance does not comply with Section 8-67 or any condition set forth in the ordinance, the City shall not attempt to seek offers, bids or proposals for the purchase of such real estate by solicitation or auction unless and until the Council has first approved or directed such solicitation or auction. The Council shall express such approval by adopting a resolution to that effect.

(Code 2004, § 26-87; Code 2015, § 8-66; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-67. Payment.

After the Council has directed the sale of City-owned real estate, the purchaser shall pay the balance of the purchase price to the City within 15 days after the City gives the purchaser notice that the deed is ready for delivery. If the purchaser has not paid the balance of the purchase price within 15 days after notice that the deed is ready for delivery, the sale of the City-owned real estate shall be void, and the City shall retain the proceeds of the deposit submitted with the offer, bid or proposal of the purchaser pursuant to Section 8-59. The provisions of this section shall apply unless the ordinance directing the sale of the City-owned real estate expressly provides otherwise.

(Code 2004, § 26-88; Code 2015, § 8-67; Ord. No. 2005-282-270, § 2, 12-12-2005)

Sec. 8-68. Sale of blighted or tax delinquent real estate acquired by City.

(a) *Sale for $1.00.* The Chief Administrative Officer may provide for the sale of real estate for the nominal amount of $1.00 in accordance with Code of Virginia, § 15.2-958.1 if such real estate qualifies under the requirements of Code of Virginia, § 15.2-958.1(A).

(b) *Sale for other than $1.00.* The Chief Administrative Officer may provide for the sale of real estate for valuable consideration other than $1.00 if such real estate qualifies under the requirements of Code of Virginia, § 15.2-958.1(A) for sale for the nominal amount of $1.00.

(c) *Ordinance required.* No real estate shall be sold pursuant to this section unless and until the Council has adopted an ordinance directing the sale of the real estate to the purchaser.

(d) *Exemption from article; procedures.* The requirements of this article, except for those set forth in this section, shall not apply to sale of real estate pursuant to this section. The Chief Administrative Officer may pursue the sale of real estate pursuant to this section by such procedures, including, without limitation, invitations for bids or public auctions, as the Chief Administrative Officer may prescribe in compliance with applicable law.

(Code 2004, § 26-89; Code 2015, § 8-68; Ord. No. 2005-282-270, § 2, 12-12-2005)

Secs. 8-69—8-94. Reserved.

ARTICLE IV. COLISEUM

DIVISION 1. GENERALLY

Sec. 8-95. Contents of application for use; form of application for permit.

Every application for use of the arena, exhibition hall or the entire building shall provide that use of the coliseum shall conform to all applicable City ordinances and all lawful rules and regulations of the Department of Police and the Department of Parks, Recreation and Community Facilities. The application shall contain a further provision to the effect that if the permit is granted the applicant, if it be other than a governmental agency or governmental entity, will indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons and property growing out of or directly or indirectly resulting from the issuance of the permit and use of the arena and exhibition hall or the entire building. If any such suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the applicant, the applicant will defend the City in any such suit or proceeding at the cost of the applicant. If a final judgment or decree is obtained against the City, either independently or jointly with the applicant, the applicant will pay such judgment or comply with such decree with all costs and expenses of whatever nature and hold the City harmless therefrom. The application and permit may be varied to conform to Code of Virginia, § 15.2-1129.

(Code 1993, § 8-101; Code 2004, § 26-191; Code 2015, § 8-95)

Sec. 8-96. Reservation of dates for use.

The Director of Parks, Recreation and Community Facilities may tentatively reserve dates for the use of the arena, the exhibition hall, or the entire building of the coliseum, without requiring the filing of the rental application therefor, but no such reservation shall be made for more than 30 days in advance of the proposed use unless the applicant shall within that time file the application provided for in this article and otherwise comply in all other respects with this article. The Director may grant exclusive use of the coliseum for use by franchised sports teams and may apply established industry standards in the booking of entertainment events.

(Code 1993, § 8-102; Code 2004, § 26-192; Code 2015, § 8-96)

Secs. 8-97—8-120. Reserved.

DIVISION 2. CHARGES FOR USE

Sec. 8-121. Rental rates.

The minimum fees for use of the coliseum may be negotiated and modified by the Director of Parks, Recreation and Community Facilities, with the approval of the Chief Administrative Officer.

(Code 1993, § 8-111; Code 2004, § 26-216; Code 2015, § 8-121; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 8-122. Moving in, moving out, setting up, rigging and rehearsal.

The minimum fees for moving in or moving out, setting up, rigging and rehearsal in the coliseum may be negotiated and modified by the Director of Parks, Recreation and Community Facilities, with the approval of the Chief Administrative Officer.

(Code 1993, § 8-112; Code 2004, § 26-217; Code 2015, § 8-122; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 8-123. Rental of portable equipment.

The Director of Parks, Recreation and Community Facilities may, with the approval of the Chief Administrative Officer, enter into a written agreement for the lease of any portable equipment at the coliseum to other governmental subdivisions or agencies operating coliseums or similar facilities and to colleges and universities, whether within or without the State, upon terms and conditions commensurate with the value of the equipment and the term for which it is leased, including the time period required for transporting such equipment to the situs at which it shall be used and for returning it to the City, all contracts to be approved as to form by the City Attorney. A person to whom any coliseum equipment is leased shall furnish to the City a bond with corporate surety in an amount equal at least to book value of the leased equipment or in such greater amount as may be specified by the Director of Parks, Recreation and Community Facilities or shall furnish to the City such other security for the return of the leased equipment in as good condition as when committed to the carrier for transport, reasonable wear and tear excepted, as may be approved by the City Attorney.

(Code 1993, § 8-113; Code 2004, § 26-218; Code 2015, § 8-123; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 8-124. Box office use.

(a) The coliseum box office may be used on the payment of a surcharge per ticket (mail order, advance sale, window), whether issued for sale or as a complimentary ticket at either the coliseum box office or at coliseum outlets for tickets, valued as set forth in this subsection. The per-ticket charge shall be computed upon the total attendance for events as agreed upon in the final box office settlement and shall be added to the face price of the ticket. The ticket prices charged pursuant to this section shall be as follows:

Price of Ticket	*Surcharge*
$7.99 and below	$0.50
$8.00 and above	
Not less than	$0.50
Not more than	$1.00

(b) The coliseum box office use fee charged for tickets priced at or above $8.00 may be negotiated and modified by the Director of Parks, Recreation and Community Facilities within the fee range set out for such tickets in subsection (a) of this section.

(c) The Director of Parks, Recreation and Community Facilities may from time to time make rules and regulations consistent with this article concerning use of the coliseum box office and ticket sales by and through agencies and services.

(Code 1993, § 8-114; Code 2004, § 26-219; Code 2015, § 8-124)

Secs. 8-125—8-146. Reserved.

ARTICLE V. CITY HALL OBSERVATION DECK

Sec. 8-147. Permission for use required.

Every person, including every department or agency of the City government and the School Board of the City, desiring to use the City Hall Observation Deck shall apply therefor in writing to the Director of Public Works and, when permitted to do so, shall pay for such use at the rates prescribed in this article. No charge shall be made for use of the City Hall Observation Deck for purposes of the City government as determined by the Director of Public Works.

(Code 1993, § 8-131; Code 2004, § 26-251; Code 2015, § 8-147; Ord. No. 2008-28-48, § 3, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 8-148. Uses permitted generally; payment for use.

The City Hall Observation Deck shall be used for lawful purposes, including, by way of illustration, meetings, parties, and other events, but only upon the terms and conditions as prescribed in this article and policies and procedures issued by the Director of Public Works in accordance with this article. An application for use of the City Hall Observation Deck shall be accompanied by a nonrefundable deposit in the amount of $125.00, and such deposit shall be in the form of a certified or cashier's check, money order or cash. The balance of the minimum rental and any additional fees shall be payable at least five working days prior to the day that the City Hall Observation Deck is to be used. Payment of the remaining portion of the minimum rental or final settlement shall be in the form of a certified or cashier's check, money order or cash. No use of the City Hall Observation Deck shall be permitted until the full amount of the minimum rental rate or charge therefor has been paid as provided in this section; provided, however, that activities authorized pursuant to Code of Virginia, § 15.2-1129, in which the City sponsors or is cosponsor of an activity, shall not be subject to the requirement for payment of the minimum rental or charge as a condition prerequisite for the use of the deck.

(Code 1993, § 8-132; Code 2004, § 26-252; Code 2015, § 8-148; Ord. No. 2011-189-185, § 1, 11-28-2011)

Sec. 8-149. Contents of application for use; form of application for permit.

Every application for use of the City Hall Observation Deck shall provide that use shall conform to all applicable City ordinances and all lawful rules and regulations of the Department of Police, the Department of Fire and Emergency Services and the Department of Public Works. The application shall contain a further provision to the effect that if the permit is granted the applicant will indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons and property growing out of or directly or indirectly resulting from the issuance of the permit and use of the City Hall Observation Deck. If any such suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the applicant, the applicant will defend the City in any such suit or proceeding at the cost of the applicant. If a final judgment or decree is obtained against the City, either independently or jointly with the applicant, the applicant will pay such judgment or comply with such decree with all costs and expenses of whatever nature and hold the City harmless therefrom. The application and permit may be varied to conform to Code of Virginia, § 15.2-1129.

(Code 1993, § 8-133; Code 2004, § 26-253; Code 2015, § 8-149; Ord. No. 2008-28-48, § 3, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2011-189-185, § 1, 11-28-2011)

Sec. 8-150. Reservation of dates for use.

All requests for use of the City Hall Observation Deck must be submitted a minimum of 60 days in advance of the event date to the Director of Public Works.

(Code 1993, § 8-134; Code 2004, § 26-254; Code 2015, § 8-150; Ord. No. 2008-28-48, § 3, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2011-189-185, § 1, 11-28-2011)

Sec. 8-151. Rental rates.

(a) *Generally.* The City Hall Observation Deck may be used upon payment of the fees as set forth below:

Single event (commercial, private, civic and charity)	$500.00
Or ten percent of gross receipts from event, whichever is greater	
Nonrefundable deposit, by check, money order or cash prior to the event	$125.00

(b) *Services included.* Events include house lights and normal janitorial services. No staff or setup is included with any rental except normal supervisory staff and janitorial staff required to perform functions or services specifically included within the rate structure.

(c) *Rates subject to modification.* The minimum fees set forth in this section are subject to modification by the Director of Public Works with approval of the Chief Administrative Officer.

(d) *Additional charges.* Additional charges apply where the services of City employees or City contractors are required. The charges to be paid by the applicant will be equal to the City's actual cost for the services of the employee or contractor, as calculated by the Director of Public Works. The Director of Public Works may require a deposit of the estimated costs prior to the event.

(Code 1993, § 8-135; Code 2004, § 26-255; Code 2015, § 8-151; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2008-28-48, § 3, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2011-189-185, §§ 1, 3, 11-28-2011)

Sec. 8-152. Rules and regulations.

The Director of Public Works may from time to time make rules and regulations concerning the use of the City Hall Observation Deck for the established purpose.

(Code 1993, § 8-136; Code 2004, § 26-256; Code 2015, § 8-152; Ord. No. 2008-28-48, § 3, 3-10-2008; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 8-153. Hours of operation; occupancy at other than authorized times.

(a) The City Hall Observation Deck shall open to the general public at 9:00 a.m. and close at 5:00 p.m. Monday through Friday. The observation deck shall be closed to the general public on Saturday and Sunday.

(b) The City Hall Observation Deck shall be closed for all City recognized holidays.

(c) The Director of Public Works may, by permit or other written authorization, allow the use of the observation deck at a time other than would ordinarily be allowed pursuant to content neutral policies and procedures issued by the Director in accordance with this article. The Director may also close the site at any time when necessary to ensure the safety of the public or to protect and preserve the facility, provided that reasonable notice of the fact and duration of the closing shall be given to the general public.

(Code 2004, § 26-257; Code 2015, § 8-153; Ord. No. 2011-189-185, § 2, 11-28-2011)

Secs. 8-154—8-174. Reserved.

ARTICLE VI. SAFETY-HEALTH/MENTAL HEALTH BUILDING

DIVISION 1. GENERALLY

Secs. 8-175—8-201. Reserved.

DIVISION 2. SALE OF COMMODITIES

Sec. 8-202. Power to grant concessions for sale of goods, wares and merchandise.

The Director of Public Works shall have the power to grant a concession:

(1) For the sale to consumers of tobacco and tobacco products, confections, drug sundries, newspapers, magazines and similar merchandise in the area on the first floor of the safety-health/mental health building designated room 101, also shown on the plan attached to the draft of Ordinance No. 64-151-138 on file in the Office of the City Clerk.

(2) For the sale to consumers of such merchandise and articles or any of them by means of vending machines

in such other areas in the safety-health/mental health building as may be designated by the Chief Administrative Officer, provided that, in designating such areas, the Chief Administrative Officer shall not permit the uses of the building to be obstructed or interfered with.

(Code 1993, § 8-161; Code 2004, § 26-311; Code 2015, § 8-202; Code 2015, § 8-202; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 8-203. Granting of concessions; rules and regulations for operation of concessions.

The concessions in the safety-health/mental health building shall be granted to a single concessionaire. Before the concessions shall be granted, the Director of Public Works shall give opportunity for competitive bidding therefor and shall grant the concession to the best responsible bidder. However, the Director shall have the power to reject any or all bids and to order new bidding or to grant the concessions to any person, whether a former bidder or not, without further bidding and, if no bids are received, to grant the concessions to any person who can and will operate them in a manner and in accordance with the terms and conditions set out in this division. The Director shall adopt rules and regulations for the operation of the concessions not inconsistent with this division.

(Code 1993, § 8-162; Code 2004, § 26-312; Code 2015, § 8-203; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 8-204. Certain equipment, appliances, furnishings and utilities provided by City for operation of concessions.

The City will provide, for the operation of the concessions in the safety-health/mental health building, the equipment, appliances, furniture and furnishings described in the appendix attached to the draft of Ordinance No. 64-151-138 on file in the Office of the City Clerk. The City will also provide all electricity, water and gas required by the concessionaire to operate the concessions.

(Code 1993, § 8-163; Code 2004, § 26-313; Code 2015, § 8-204)

Sec. 8-205. Terms and conditions on which concessions granted.

The concessions granted pursuant to this division shall be granted upon the following terms and conditions:

(1) The concessionaire shall operate the concessions in an efficient manner for the convenience and safety of persons served thereby and in accordance with such rules and regulations as are prescribed by the Director of Public Works.

(2) The concessionaire will provide all utensils, cutlery and containers and all other equipment, appliances, furniture and furnishings that are not provided by the City pursuant to Section 8-204 as are necessary and required by the Director for the efficient operation of the concessions.

(3) The concessionaire shall maintain all equipment, appliances, furniture and furnishings provided by the City pursuant to Section 8-204 and provided by the concessionaire pursuant to this section in a manner satisfactory to the Director and shall make such repairs thereto and replacements thereof as shall be required by the Director.

(4) The concessionaire shall sell or offer such merchandise and articles for sale at the place of each concession on such days and during such hours thereof as shall be required from time to time by the Director.

(5) The prices charged by the concessionaire for such merchandise and articles shall be subject to the approval of the Director. The concessionaire shall submit to the Director, prior to occupancy of the place of each concession and at such other times as the concessionaire may elect, the prices proposed to be charged for such merchandise and articles and shall sell or offer such merchandise and articles for sale at those prices unless otherwise changed by the Director. The Director may require the concessionaire to post, display or otherwise inform the public of such prices in such manner as the Director may prescribe.

(6) The concessionaire will employ such persons as may be required by the Director to operate the concessions and to sell or offer such merchandise and articles for sale in any efficient manner for the convenience and safety of persons served thereby and in accordance with the rules and regulations adopted by the Director and will furnish to the Director such proof as may be required as to the competence of such persons to do so. Whenever it appears to the Director that any such person is unfit

or incompetent, the concessionaire, upon notice from the Director, shall dispense with the services of such person, and if such person is the concessionaire the concessions shall be revoked and terminated by the Director.

(7) The concessionaire will pay to the City a percentage of the gross receipts from the sale of such merchandise and articles to be determined in the grant of the concessions. Such payments shall be made on or before the 15th day of each calendar month covering the gross receipts for the preceding calendar month. The gross receipts shall include the entire receipts or amount of money collected or collectible by the concessionaire from such sales.

(8) The concessions granted by the Director shall be at the will of the Director or the concessionaire and may be terminated at any time by either the Director or the concessionaire upon giving written notice to that effect to the other.

(9) Upon the termination of the concessions, the concessionaire will forthwith remove from the safety-health/mental health building all property of the concessionaire and shall leave the premises and all property of the City used in the operation of the concessions in substantially the same condition as it existed on the day the concessions were granted and otherwise in a condition satisfactory to the Director, ordinary wear and tear excepted.

(10) The concessionaire shall indemnify, reimburse, keep and hold the City free and harmless from liability on account of injury, damage or loss to persons and property growing out of or directly or indirectly resulting from the grant of the concessions, the sale or offering for sale of such merchandise and articles and the use of the concession areas for such purposes. If any suit or proceeding shall be brought against the City, at law or in equity, on account thereof, either independently or jointly with the concessionaire, the concessionaire shall defend the City in any such suit or proceeding at the cost of the concessionaire. If a final judgment or decree is obtained against the City, either independently or jointly with the concessionaire, the concessionaire shall pay such judgment or comply with such decree with all costs and expense of whatever nature and hold the City harmless therefrom.

(11) The concessionaire shall insure its liability in connection with the operation of the concessions, the sale or offering for sale of such merchandise and articles and the use of the concession areas for such purposes, providing indemnities of not less than $100,000.00 for bodily injury to any one person in any one occurrence and of not less than $300,000.00 for all bodily injuries resulting from any one occurrence and of not less than $50,000.00 for property damage. The City shall be named as an additional insured under the insurance contract. The concessionaire shall keep the insurance in full force and effect at all times during the operation of the concessions, the sale or offering for sale of such merchandise and articles and the use of the concession areas. The concessionaire shall provide the City with a certificate of such insurance which shall contain a statement that the insurance is provided to enable the concessionaire to perform its obligations under this subsection and that the insurance will not lapse or otherwise expire prior to 60 days' written notice thereof given by the concessionaire's insurance carrier to the Director, anything in the insurance contract to the contrary notwithstanding.

(12) The concessionaire shall furnish and deliver to the City at the time the concessions are granted a corporate surety bond payable to the City in the amount of $5,000.00, conditioned upon the payment by the concessionaire of all sums of money due the City under this section and upon the removal from the safety-health/mental health building of all property of the concessionaire and leaving the premises and all property of the City used in the operation of the concessions in substantially the same condition as it existed on the day the concessions were granted and otherwise in a condition satisfactory to the Director, ordinary wear and tear excepted, upon the termination of the concessions. The bond shall be approved by the City Attorney. The cost of the bond shall be paid by the concessionaire, and it shall be kept in full force and effect until the concessions are terminated. It shall contain a provision that it will not be canceled or terminated or otherwise allowed to expire prior to 60 days' notice in writing to that effect, given to the Director.

(13) The Director shall have the power to revoke or terminate the concessions at any time when the concessionaire fails, refuses or neglects to observe and comply with any of the terms and conditions set

out in this section or any rule or regulation adopted by the Director pursuant to this division.

(Code 1993, § 8-164; Code 2004, § 26-314; Code 2015, § 8-205; Ord. No. 2010-21-67, § 2, 4-26-2010)

Secs. 8-206—8-233. Reserved.

ARTICLE VII. COURTS BUILDINGS

Sec. 8-234. Assessment of costs for construction, renovation or maintenance.

There is hereby assessed as a part of the costs in each criminal, traffic, or civil case in the District Court or Circuit Court the sum of $2.00. The assessment shall be collected by the clerk of the court in which the action is filed shall be remitted to the City, and shall be held by the City for disbursement for the construction, renovation or maintenance of the courts buildings or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance. The assessment is made pursuant to Code of Virginia, § 17.1-281 and shall be in addition to all other costs prescribed by law.

(Code 1993, § 8-181; Code 2004, § 26-346; Code 2015, § 8-234)

State law reference—Assessment for courthouse construction, Code of Virginia, § 17.1-281.

Sec. 8-235. Assessment of costs for maintenance of courts law library.

There is hereby assessed as a part of the costs incident to every civil action filed in the District Court or Circuit Court the sum of $4.00. The assessment shall be collected by the clerk of the court in which the action is filed, shall be remitted to the City and shall be held by the City for disbursement for the maintenance of the courts law library. The assessment shall be in addition to all other costs prescribed by law.

(Code 1993, § 8-182; Code 2004, § 26-347; Code 2015, § 8-235; Ord. No. 2012-110-113, § 1, 7-23-2012)

State law reference—Assessment for law library, Code of Virginia, § 42.1-70.

Secs. 8-236—8-263. Reserved.

ARTICLE VIII. USE OF PUBLIC GROUNDS, PARKS, PLAYFIELDS AND PLAYGROUNDS*

***Charter reference—**Authority of City to own and operate parks, playgrounds, etc., § 2.03(b).

Cross reference—Advisory Board of Recreation and Parks, § 2-1056 et seq.; possession of open alcoholic beverage containers in public parks, playgrounds and streets, § 19-3; drinking alcoholic beverages or offering to another in public places, § 19-4.

DIVISION 1. GENERALLY

Sec. 8-264. Disruptive conduct or obstruction of activities or programs.

It shall be unlawful for any person to behave in such disruptive manner upon any playground, recreation area or recreation facility operated or conducted by the City so as to impede, obstruct or interfere, by use of verbal or physical threat, intimidation, loud noise, or obscene conduct, with any other persons engaged or participating in any recreation activity or program conducted thereon or with the efforts or functions of any representative of the City in conducting or supervising the conduct of such activity or program.

(Code 1993, § 8-201; Code 2004, § 26-381; Code 2015, § 8-264)

Sec. 8-265. Exclusion of persons ceasing to be amenable to efforts of representatives to secure good conduct.

(a) Every person who ceases to be amenable to efforts of any City representative to secure good conduct upon the part of such person or whose deportment is detrimental to good order or the conduct of such activity or program shall be excluded from and required to leave the playground, area or facility forthwith upon the order of such representative or of any police officer and shall not be permitted to return to any playground, recreation area or recreation facility operated or conducted by the City until the Director of Parks, Recreation and Community Facilities is satisfied that such person will behave in a manner that will not be detrimental to good order and the conduct of recreation activities or programs on such playgrounds, areas or facilities.

(b) Every such person who is allowed to return to such playgrounds, areas or facilities and who thereafter persists in not being amenable to efforts of such representative to secure good conduct upon the part of such person

or whose deportment continues to be detrimental to good order or the conduct of such activities or programs shall be excluded from and required to leave the playground, area or facility forthwith upon the order of such representative or any police officer and shall not be allowed to return to any playground, recreation area or recreation facility operated or conducted by the City.

(Code 1993, § 8-202; Code 2004, § 26-382; Code 2015, § 8-265)

Sec. 8-266. Permission to return after exclusion.

It shall be unlawful for any person to fail, refuse or neglect to obey any such order given pursuant to Section 8-265 or to return to or go upon any such playground, recreation area or facility after having been excluded therefrom and before being permitted to do so by the Director of Parks, Recreation and Community Facilities or to return to or go upon any such playground, area or facility after having been excluded therefrom for persisting in conduct or deportment as specified in Section 8-265.

(Code 1993, § 8-203; Code 2004, § 26-383; Code 2015, § 8-266)

Sec. 8-267. Entering areas closed to public use.

It shall be unlawful for any person to go upon or use for any purpose any part of a public park or recreational area of the City when such portion of such park or area has been closed to public use.

(Code 1993, § 8-204; Code 2004, § 26-384; Code 2015, § 8-267)

Sec. 8-268. Use of certain portions for designated activities only.

On any public park, recreation area or grass plot owned or maintained by the City, except in such place therein as may be equipped, designed or designated by the Director of Parks, Recreation and Community Facilities for that purpose, it shall be unlawful for any person to:

(1) Use a baseball, softball, football, basketball or golf ball.

(2) Ride a motorcycle or similar vehicle.

(3) Operate any engine for propelling any vehicle, device or contraption.

(4) Discharge or fire any firearm in which ammunition may be used or discharged by explosive pneumatic pressure or mechanical contrivance.

(5) Discharge any arrow by means of a bow, crossbow or otherwise.

(Code 1993, § 8-205; Code 2004, § 26-385; Code 2015, § 8-268)

Sec. 8-269. Restricted use of bicycles.

It shall be unlawful for any person to ride a bicycle on any public park or playground owned or maintained by the City when such riding is prohibited by signs.

(Code 1993, § 8-206; Code 2004, § 26-386; Code 2015, § 8-269)

Sec. 8-270. Glass bottles or glass.

(a) No person shall take any glass bottle or glass into or on any public ground, park, playfield or playground of the City or upon the shores of the James River adjacent to any such public ground, park, playfield or playground.

(b) Any person who is convicted of a violation of this section shall be punishable by a fine not to exceed $100.00.

(Code 1993, § 8-207; Code 2004, § 26-387; Code 2015, § 8-270)

Sec. 8-271. Sliding down banks or inclines.

It shall be unlawful for any person to slide down any bank or incline in any public park or any grass plot owned or maintained by the City, except when the bank, incline or plot is covered with snow or ice or both.

(Code 1993, § 8-208; Code 2004, § 26-388; Code 2015, § 8-271)

Sec. 8-272. Wearing baseball, football or track shoes on asphalt surfaces.

It shall be unlawful for any person to walk on any asphalt surface within any public park or recreational area of the City wearing baseball, football or track shoes.

(Code 1993, § 8-209; Code 2004, § 26-389; Code 2015, § 8-272)

Sec. 8-273. Camping, tenting or lying on benches.

It shall be unlawful for any person to camp, tent, encamp or quarter upon any public grounds, parks, playfields, playgrounds or any public property owned or maintained by the City or lie upon any benches located within any such public property.

(Code 1993, § 8-210; Code 2004, § 26-390; Code 2015, § 8-273)

Sec. 8-274. Issuance of permits and conditions for concessions.

(a) The Director of Parks, Recreation and Community Facilities, referred to as "Director," is hereby authorized to permit the sale of beverages other than alcoholic beverages, confections, food and tobacco products and the renting of boats, or any of them, referred to as "merchandise," in the public parks and playgrounds of the City by persons, firms, associations, organizations and corporations, referred to as "concessionaires," upon the following terms and conditions, by the issuance of written permits therefor in form approved by the City Attorney:

(1) Each concessionaire will remove from the premises used before 10:00 a.m. of the day following each use all paper, paper products and containers, refuse and litter of every kind resulting from such use and the sale of merchandise thereon.

(2) Each concessionaire, before the permit is issued, will pay to the Director in cash the permit fee of $50.00 for the sale of each class of merchandise.

(3) Each concessionaire will observe, obey and comply with all laws, ordinances, rules and regulations relating to the sale and distribution of merchandise.

(4) No concessionaire will sell or distribute merchandise after the hours prescribed by the Director for the closing of parks and playgrounds or any of them.

(5) Each concessionaire will pay all license taxes assessed or assessable for the sale or offering for sale of merchandise before the permit is issued.

(6) All beverages shall be sold in paper containers, for which a charge not exceeding $0.03 for the container may be made, and all bottles, cans or other glass or metal containers shall remain at all times in the actual control and possession of the concessionaire and shall be kept at all times in places not accessible to the public.

(7) Each concessionaire will offer for sale and sell merchandise at such times as shall be required by the Director.

(8) Every person, whether a concessionaire or the agent or employee of a concessionaire, actually engaged in offering merchandise for sale, will provide the Director with sufficient proof as may be required at any time of such person's qualifications to sell or offer merchandise for sale. Whenever it appears to the Director that such person is unfit to do so, if the person is the concessionaire, the permit shall be revoked upon notice to that effect given the concessionaire by the Director; if the person is the agent or employee of the concessionaire, such person's services shall be dispensed with upon notice to that effect given the concessionaire by the Director.

(9) The Director shall have the authority to promulgate and enforce from time to time such rules and regulations as are necessary to control and regulate the sale of merchandise not inconsistent with this section, and each concessionaire shall observe, obey and comply therewith.

(10) The Director shall revoke any permit issued at any time upon notice in writing to any concessionaire whenever the concessionaire fails, refuses or neglects to observe, obey or comply with any of the terms and conditions of this section or rule or regulation promulgated pursuant thereto. Upon such revocation, any sum paid by the concessionaire for the issuance of the permit shall be retained by the City.

(11) Each permit issued shall state that it is issued at the will of the Director and shall be terminable by either

the Director or the concessionaire at any time upon either the Director's giving to the concessionaire or the concessionaire's giving to the Director written notice of intention to terminate such permit. Any such permit shall expire on December 31 of the year in which it is issued, and the sale or offering for sale of merchandise shall be unlawful and constitute a violation of this section after the termination date of a permit.

(12) Not more than one concessionaire will be permitted to sell or offer for sale each class of merchandise in a park or playground or in any area or part thereof designated by the Director.

(13) The concessionaire shall indemnify, keep and hold the City free and harmless from liability on account of injury, damage or loss to persons and property growing out of or directly or indirectly resulting from the grant of the concession, the sale or offering for sale of commodities and the use of the City property for such purposes. If any suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the City on account thereof, the concessionaire shall defend the City in any such suit or proceeding at the cost of the concessionaire. If a final judgment or decree is obtained against the City, either independently or jointly with the concessionaire, the concessionaire shall pay such judgment or comply with such decree with all costs and expenses of whatever nature and hold the City harmless therefrom.

(14) The concessionaire shall insure its liability under subsection (a)(13) of this section and its liability for injury or death or damage to or loss of property in connection with the operation of the concession, the sale or offering for sale of commodities and the use of City property for such purposes in an amount of not less than $1,000,000.00 to cover the injury to or death of one person in any one occurrence and not less than $1,000,000.00 to cover the injury or death of more than one person in any one occurrence, together with property damage of not less than $1,000,000.00. The City shall be named as an additional insured under the insurance contract. Premiums chargeable for the insurance shall be paid by the concessionaire, and it shall be kept in full force and effect for the term or duration of the concession. It shall contain a provision that it shall not be canceled or terminated or otherwise allowed to expire prior to 60 days' notice in writing to that effect given to the Director. The insurance contract shall be approved by the City Attorney. The insurance contract shall be provided and shall be in force at the time the concession is granted.

(15) The Director may require any concessionaire, prior to the issuance of a permit, to furnish to and deliver to the City a corporate surety bond, in such amount as may be specified by the Director, conditioned upon the payment by the concessionaire of all sums of money due the City for use of City facilities by the concessionaire and for the repair or restoration of all property of the City damaged or destroyed as a result of or incident to the use of City facilities. The bond shall be approved as to form by the City Attorney. The concessionaire shall pay the cost of such bond, which bond shall be kept in full force and effect during the permit term, and the bond shall contain a provision that it shall not be permitted to terminate nor expire during the permit term and that it shall not be canceled during the permit term without 90 days' prior notice in writing furnished to the Director and to the City Attorney.

(b) It shall be unlawful and shall constitute a violation of this section for any concessionaire to fail, refuse or neglect to comply in all respects with the terms and conditions of this section or a rule or regulation promulgated pursuant to this section. Upon such violation, the concessionaire shall be subject to a fine of not less than $50.00 nor more than $150.00. Each violation and each day's continuance thereof shall constitute a separate offense.

(c) Before issuing any permit under this section, the Director shall, whenever practicable, give opportunity for competitive bidding. The issuance of the permit, whenever practicable, shall be based on competitive bids, which may be informal, after public notice thereof given by publication of the notice in a daily newspaper of general circulation published in the City at least once or by posting the notice on a bulletin board in the Department of Parks, Recreation and Community Facilities from the time bids are invited until they are opened or by mail or any other means as in the opinion of the Director is desirable in the public interest. The Director shall have the authority to reject any or all bids, to readvertise for bids, or to issue the permit to any concessionaire who is ready, willing and able to provide the service in accordance with the terms and conditions of this section. Whenever a permit is issued upon competitive bids, it shall be granted to the highest and most responsible bidder. The Director, whenever it is in the public interest to do so, may issue permits without resort to competitive bidding and without the payment

of any fee or charge for the sale of merchandise by athletic leagues or athletic associations at playgrounds equipped for playing sports and for the sale of merchandise by civic associations on special occasions and by civic clubs, associations or organizations. In issuing permits to athletic leagues and associations, civic associations and civic clubs, associations or organizations, the Director may waive the furnishing of indemnity and insurance provided for in subsections (a)(13) and (a)(14) of this section.

(Code 1993, § 8-211; Code 2004, § 26-391; Code 2015, § 8-274; Ord. No. 2019-063, § 1, 5-13-2019)

Sec. 8-275. Concession for commercial inflatable craft tours.

(a) The Director of Parks, Recreation and Community Facilities shall have the power to grant concessions for the operation of commercial inflatable craft tours from designated areas of the James River Park.

(b) Before any such concession is granted, the Director shall give opportunity for competitive bidding therefor and shall grant the concession to the best qualified responsible bidder. However, the Director shall have the power to reject any or all bids and to order new bidding or to grant the concession to any person, whether a former bidder or not, without further bidding and, if no bids are received, to grant the concession to any person who can and will operate the concession in an efficient manner and in accordance with the terms and conditions of this section. The Director shall adopt rules and regulations for the operation of the concession.

(c) Each concession granted by the Director of Parks, Recreation and Community Facilities under this section shall be upon the following terms and conditions:

(1) The concessionaire shall pay to the City on an annual basis all rental income and all guarantees or percentages due. These payments shall be due, with a detailed report of such income, on or before the 30th calendar day following the end of each lease year. Instructions given in canoe and kayak handling shall be allowed, and no fee shall be paid to the City for this service.

(2) The concessionaire shall operate the concession in an efficient manner for the convenience and safety of the public and in accordance with such rules and regulations as are prescribed by the Director of Parks, Recreation and Community Facilities.

(3) The concessionaire will provide all of the equipment necessary and required by the Director for the efficient operation of the concession.

(4) The concessionaire will pay all license taxes assessed or assessable for the operation of the concession.

(5) Every person, whether a concessionaire or the agent or employee of a concessionaire, actually engaged in the operation of the concession will provide the Director with sufficient proof as may be required at any time of such person's fitness in terms of qualifications and experience to operate the concession. Whenever it appears to the Director that such person is unfit to do so, if such person is the concessionaire, the permit shall be revoked upon notice to that effect given the concessionaire by the Director; if the person is the agent or employee of the concessionaire, such person's services shall be dispensed with upon notice to that effect given the concessionaire by the Director.

(6) The permit issued shall be valid for a period not to exceed four years ten months and shall be consistent with City procurement laws, rules and regulations. However, it may be terminated by either the Director or the concessionaire at any time upon either the Director's giving to the concessionaire or the concessionaire's giving to the Director written notice of intention to terminate such permit and giving the reason therefor. The operation of the concession shall be unlawful and shall constitute a violation of this section after the termination date of such permit.

(7) The concessionaire shall indemnify, keep and hold the City free and harmless from liability on account of injury, damage or loss to persons and property growing out of or directly or indirectly resulting from the grant of the concession for commercial inflatable craft tours and the use of the City property for such purposes. If any suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the City on account thereof, the concessionaire shall defend the City in any such suit or proceeding at the cost of the concessionaire. If a final judgment or decree is obtained against the City, either independently or jointly with the concessionaire, the concessionaire shall pay such judgment or comply with such decree with all costs and expenses of whatever nature and hold the City

harmless therefrom.

(8) The concessionaire shall insure its liability under subsection (c)(7) of this section and its liability for injury or death or damage to or loss of property in connection with the operation of the concession for commercial inflatable craft tours and the use of City property for such purposes by an insurance contract issued by an insurance company which has agreed to subject itself to the jurisdiction of the Circuit Court of the City, covering bodily injury and property damage combined in an amount of not less than $1,000,000.00 for each occurrence with an aggregate of $1,000,000.00. A deductible clause of not more than $500.00 will be permitted. The City shall be named as an additional insured under the insurance contract. Premiums chargeable for the insurance shall be paid by the concessionaire, and it shall be kept in full force and effect for the term or duration of the concession. It shall contain a provision that it shall not be canceled or terminated or otherwise allowed to expire prior to 30 days' notice in writing to that effect given to the Director. The insurance contract shall be approved by the City Attorney. The permit issued shall automatically terminate at any time the aggregate of $1,000,000.00 shall be reduced by claims to not less than $500,000.00. Further, failure by the concessionaire to obtain the bodily injury and property damage liability insurance required by this subsection or to fail to maintain such insurance coverages at all times during the full term of the concession shall cause the permit for such concession to automatically terminate, and all rights of the concessionaire under the permit shall come to an end in the absence of or upon expiration or termination of any of the required coverages without further notice from the City. Any further use of the designated areas of James River Park for the purpose of conducting commercial inflatable craft tours and canoe and kayak handling will be unauthorized.

(9) The Director may require any concessionaire, prior to the issuance of a permit, to furnish to and deliver to the City a corporate surety bond, in such amount as may be specified by the Director, conditioned upon the payment by the concessionaire of all sums of money due the City for use of City facilities by the concessionaire and for the repair or restoration of all property of the City damaged or destroyed as a result of or incident to the use of City facilities. The bond shall be approved as to form by the City Attorney. The concessionaire shall pay the cost of such bond, which bond shall be kept in full force and effect during the permit term. The bond shall contain a provision that it shall not be permitted to terminate or expire during the permit term and that it shall not be canceled during the permit term without 90 days' prior notice in writing furnished to the Director and to the City Attorney. Failure to keep in force the required insurance or surety bond, or both, shall constitute a default of the contract and shall result in termination upon notice of such failure.

(10) It shall be unlawful and shall constitute a violation of this section for any concessionaire to fail, refuse or neglect to comply in all respects with the terms and conditions of this section or rule or regulation promulgated pursuant to this section. Upon such violation, the concessionaire shall be subject to a fine of not less than $50.00 nor more than $150.00. Each violation and each day's continuance thereof shall constitute a separate offense.

(Code 1993, § 8-212; Code 2004, § 26-392; Code 2015, § 8-275)

Sec. 8-276. Charge for use of facilities for conduct of special interest classes.

The Council hereby authorizes and directs the Director of Parks, Recreation and Community Facilities to charge and collect a fee, 30 percent of the gross revenue, from each person who is permitted to use a facility of the Department of Parks, Recreation and Community Facilities for the purpose of conducting and instructing one or more special interest classes. The entire fee for enrolling in such classes shall be paid to the City, with the City retaining 30 percent of the fee and paying the balance to the instructor. The City's portion of such fees shall be paid into the City treasury.

(Code 1993, § 8-213; Code 2004, § 26-393; Code 2015, § 8-276)

Sec. 8-277. Fee for use of Dogwood Dell Amphitheater in Byrd Park.

A fee of $150.00 per hour, with a four-hour minimum, plus $35.00 per hour per staff person, with a four-hour minimum, shall be charged and paid into the City treasury for the use of the Dogwood Dell Amphitheater in Byrd Park for programs other than Festival of Arts productions staged under the joint auspices of the Department of

Parks, Recreation and Community Facilities. The programs for which the fee is to be imposed include graduation ceremonies, orientations, and sponsored performances and productions, other than the Festival of Arts. The person to whom the Dogwood Dell Amphitheater is rented shall not charge admission for any such performance or activity. This fee does not allow for access to the equipment tunnel or dressing rooms.

(Code 1993, § 8-214; Code 2004, § 26-394; Code 2015, § 8-277; Ord. No. 2004-91-120, § 1, 5-24-2004; Ord. No. 2005-98-106, § 1, 5-31-2005; Ord. No. 2006-86-151, § 1, 5-30-2006; Ord. No. 2007-51-119, § 1, 5-29-2007; Ord. No. 2008-55-115, § 1, 5-27-2008; Ord. No. 2017-057, § 1, 5-15-2017; Ord. No. 2018-084, § 1, 5-14-2018; Ord. No. 2020-080, § 2)

Sec. 8-278. Fee for use of City-owned equipment.

The fees as set forth in this section shall be charged of users and the fees shall be paid into the City treasury when the items of equipment owned by the Department of Parks, Recreation and Community Facilities listed in this section are used in activities sponsored by parties other than the Department of Parks, Recreation and Community Facilities of the City; such fee shall be paid prior to pickup of any listed item, and the fee is per day for rentals, inside facilities only. Except with regard to mobile stage units, the rental or use fee set forth in this section does not include delivery of the equipment and users shall be responsible for pick up, transportation of, and return of any equipment rented. In addition, the user shall be responsible for staffing cost for delivery, staffing, if necessary, and pickup per hour per staff person assigned. For mobile stage units, a fee of $1,600.00 per day shall be charged, including setup and breakdown, generator, and staffing costs.

(Code 1993, § 8-215; Code 2004, § 26-395; Code 2015, § 8-278; Ord. No. 2004-91-120, § 1, 5-24-2004; Ord. No. 2005-98-106, § 1, 5-31-2005; Ord. No. 2006-86-151, § 1, 5-30-2006; Ord. No. 2007-51-119, § 1, 5-29-2007; Ord. No. 2017-057, § 1, 5-15-2017; Ord. No. 2020-080,)

Sec. 8-279. Fees for use of public parks.

(a) Each person shall, for the privilege of renting the indoor facilities of park houses and recreation centers for private parties, receptions and weddings, be charged a user's fee as set forth in this subsection. The user's fee shall be paid into the City treasury to defray the cost of the maintenance of the facility and the cost of utilities.

For the privilege of renting park houses and recreation centers, per room, per hour with a two-hour minimum plus staff cost:			
(1)	Recreation center meeting rooms:		
	a.	Small (25 people or less), per hour	$30.00
	b.	Medium (26 to 75 people), per hour	$40.00
	c.	Large (76 or more people), per hour	$65.00
(2)	Park house (Chimborazo)		$30.00
(3)	Park house (Byrd Park Round House)		$55.00
(4)	Park house (Forest Hill Stone House)		$55.00
(5)	Kitchens		$25.00
(6)	Gymnasiums		$65.00
(7)	City holiday rate		Double the base rate
(8)	Staff cost, per staff per hour		$35.00
(9)	Refundable security deposit to be paid by credit card only		$100.00

(b) For rafting within the James River Park Systems, a one-time per year rafting vendor permit fee of $25.00 and rafting fee of $50.00, which applies to permitted vendors for up to six rafts per trip, shall be imposed.

(c) Additional fees shall be imposed as follows:

For the privilege of renting a portion of a public park where no admission fees are charged or fundraising occurs. Excludes the following: amplified music, vendors, fireworks, carnival-type attractions, or street closures, per hour			$50.00
Grounds fees:			
(1)	Category 1: Small gathering with less than 100 attendees where no admissions fees are charged or fundraising occurs. Excludes amplified music, vendors, alcohol, fireworks, carnival attractions (i.e., moon bounces, bungee jumps, giant slides, etc.) or street closures. This fee is not applicable for events occurring at Kanawha Plaza and 17th Street Market		$50.00
(2)	Category 2: Events that meet one or more of the following criteria:		$100.00
	a.	101--300 attendees	
	b.	Fundraiser for verified nonprofits	
	c.	Amplified music/sound	
	d.	Publicly advertised	
	e.	Food/merchandise vendors	
	f.	Serving/selling alcohol	
	g.	Carnival attractions (i.e., moon bounces, bungee jumps, giant slides, etc.) or street closures. This fee is not applicable for events occurring at Kanawha Plaza and 17th Street Market, per hour, with a minimum of four hours, plus staff costs at $35.00, per hour, per staff	
(3)	Category 3: Events that meet one or more of the following criteria:		$150.00
	a.	301 or more attendees	
	b.	For profit or fundraising	
	c.	Amplified music/sound	
	d.	Publicly advertised	
	e.	Food/merchandise vendors	
	f.	Serving/selling alcohol	
	g.	Carnival attractions (i.e., moon bounces, bungee jumps, giant slides, etc.) or street closures. This fee is not applicable for events occurring at Kanawha Plaza and 17th Street Market, per hour, plus staff costs at $35.00 per hour, per staff	
(4)	Refundable security deposit to be paid with credit card only		$250.00
(5)	Early set up fee (day before event)		$200.00
(6)	Staff cost, per staff		$35.00

(Code 1993, § 8-217; Code 2004, § 26-396; Code 2015, § 8-279; Ord. No. 2005-98-106, § 1, 5-31-2005; Ord. No. 2006-86-151, § 1, 5-30-2006; Ord. No. 2007-51-119, § 1, 5-29-2007; Ord. No. 2017-057, § 1, 5-15-2017; Ord. No. 2020-80, §§ 1, 2, 5-11-2020)

Sec. 8-280. Hours of operation; occupancy at other than authorized times.

(a) Unless otherwise provided in this section, all public parks, playgrounds and recreation areas in the City shall open at sunrise and shall close at sunset each day of the year.

(b) All lighted recreational facilities, including, by way of illustration, but not limited to, seasonal recreation

centers, playgrounds, ball diamonds, tennis courts, park houses and other lighted recreational areas, shall open at sunrise and shall close at sunset, except during the period of April 1 to October 31 each year when they shall open at sunrise and close at 10:30 p.m.

(c) The recreational grounds including and immediately adjacent to the Byrd Park Fountain Lake shall open at 5:00 a.m. and close at 12:00 midnight each day of the year. The limits of such grounds shall be clearly posted to indicate the area to which these particular opening and closing times apply.

(d) The Director of Parks, Recreation and Community Facilities may, by permit or other written authorization, allow the use of any site of the Department of Parks, Recreation and Community Facilities at a time other than would ordinarily be allowed. The Director may also close any recreational site at any time when necessary to ensure the safety of the public or to protect and preserve the recreational facility, provided that reasonable notice of the fact and duration of the closing shall be given to the public.

(e) It shall be unlawful for any person other than a police officer of the City or State, an employee of the Department of Parks, Recreation and Community Facilities acting in the scope of employment, or any other employee of the City acting in the scope of employment and having authorization from the Director of Parks, Recreation and Community Facilities to go on, to go into or to occupy a public park, playground or recreation facility or area during hours other than as set out in this section.

(f) This section shall not prohibit a motorist nor a pedestrian using the traveled portion of a street, sidewalk or highway from traversing such street, sidewalk or highway in order to reach a destination that is elsewhere other than the public park, playground or recreation area.

(g) Violation of this section shall constitute a Class 4 misdemeanor.

(Code 1993, § 8-218; Code 2004, § 26-397; Code 2015, § 8-280)

Sec. 8-281. Permit processing fee.

A fee of $15.00 shall be charged and paid into the City treasury to aid in defraying the cost of issuing a permit for the use of public grounds, parks, playfields and playgrounds. This fee shall be charged in addition to any fees related to the individual permit.

(Code 1993, § 8-219; Code 2004, § 26-398; Code 2015, § 8-281; Ord. No. 2005-98-106, § 1, 5-31-2005)

Sec. 8-282. Parking in other than designated areas; fee.

The Director of Parks, Recreation and Community Facilities may from time to time, for good cause, authorize vehicles to park in other than those areas designated for the public to be allowed to park vehicles. A fee of $5.00 per vehicle must be paid for each vehicle for which such privilege to park in a restricted area is granted. Only the Director of Parks, Recreation and Community Facilities may enter into such parking arrangements.

(Code 1993, § 8-220; Code 2004, § 26-399; Code 2015, § 8-282)

Sec. 8-283. Parking on perimeter of James River Park and Forest Hill Park.

(a) No motor vehicle shall be parked on the perimeter (abutting any side of a park) side of any street which abuts the parks comprising James River Park nor Forest Hill Park at any time that any of such parks shall be closed as provided in Section 8-280. Parking may be permitted on such streets at such times as the Director of Parks, Recreation and Community Facilities, under the permissive provisions of Section 8-280, may allow the parks or either of them, in whole or in part, to remain open beyond the normal closing hour.

(b) Upon conviction of a violation of this section, the penalty shall be fixed by a fine in an amount not to exceed $100.00.

(Code 1993, § 8-221; Code 2004, § 26-400; Code 2015, § 8-283)

Sec. 8-284. Meeting fees; exceptions.

(a) A fee of $25.00 per meeting shall be charged and paid into the City treasury for any civic or community meeting that is open to the public for a two-hour period, for meetings held in park houses, recreation centers and other facilities administered by the Department of Parks, Recreation and Community Facilities, to aid in defraying the cost of operation and maintenance of public facilities. This fee shall not apply to the use of the Carillon, Belle

Isle Environmental Education Center and facilities under the administration of the Bureau of Community Facilities.

(b) A fee of $140.00 per meeting of up to four hours shall be charged and paid into the City treasury for any private meeting held in park houses, recreation centers and other facilities administered by the Department of Parks, Recreation and Community Facilities, to aid in defraying the cost of operation and maintenance of public facilities. This fee shall not apply to the use of the Carillon, Belle Isle Environmental Education Center and facilities under the administration of the Bureau of Community Facilities.

(c) In addition to the fees set forth in subsections (a) and (b) of this section, a fee of $35.00 per hour per staff person shall be charged for staff costs in setting up and preparing any room. Any reservation made for the use of a facility on an official City holiday shall require the payment of an additional fee of $275.00.

(Code 1993, § 8-223; Code 2004, § 26-401; Code 2015, § 8-284; Ord. No. 2005-98-106, § 1, 5-31-2005; Ord. No. 2006-86-151, § 1, 5-30-2006; Ord. No. 2007-51-119, § 1, 5-29-2007; Ord. No. 2017-057, § 1, 5-15-2017; Ord. No. 2020-80, § 2, 5-11-2020)

Sec. 8-285. Belle Isle Environmental Education Center usage fee.

A fee of $45.00 shall be charged and paid into the City treasury for an adult meeting usage fee for meetings held in Belle Isle Environmental Education Center of James River Park, to aid in defraying the cost of operation and maintenance of public facilities.

(Code 1993, § 8-224; Code 2004, § 26-402; Code 2015, § 8-285)

Sec. 8-286. Permit required to locate, excavate or remove historical or archaeological resources, relics or artifacts.

(a) It shall be unlawful for any person to undertake any type of field investigation, exploration or recovery activity in an effort to locate, excavate, remove or otherwise disturb any historical or archaeological resource, relic, artifact or item upon public grounds, including City parks and playgrounds, unless such activity is conducted pursuant to a written permit granted under this section or pursuant to written permission otherwise granted by the Chief Administrative Officer. Upon conviction of an offense under this section, a person shall be guilty of a Class 4 misdemeanor.

(b) The Director of Parks, Recreation and Community Facilities is authorized to issue a permit to locate, excavate or remove historical or archaeological resources, relics, artifacts or items upon City parks or playgrounds if the Director determines that:

(1) The applicant is qualified by training and profession to carry out the permitted activity;

(2) The activity is undertaken for the purpose of furthering historical or archaeological knowledge in the public interest;

(3) The historical or archaeological resources, relics, artifacts or items which are excavated or removed will remain the property of and subject to the disposition of the City; and

(4) The activity conducted pursuant to such permit is not inconsistent with any general management plan established for the particular City park or playground involved.

(c) A written application for a permit shall be required, and the application shall set forth such information as the Director deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work. The written application shall be accompanied by payment of a permit fee of $25.00.

(Code 1993, § 8-225; Code 2004, § 26-403; Code 2015, § 8-286; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 8-287. Cutting down any tree on City property prohibited.

It shall be unlawful for any person to cut down or cause to be cut down any tree on any City-owned real estate or in any City-owned right-of-way without the express written permission of the Director of Public Works. Each tree so cut down or caused to be cut down shall constitute a separate offense under this section.

(Code 1993, § 8-226; Code 2004, § 26-404; Code 2015, § 8-287; Ord. No. 2009-1-19, § 1, 1-26-2009)

Secs. 8-288—8-307. Reserved.

DIVISION 2. BRYAN PARK

Sec. 8-308. Entry of vehicles during azalea blossom period.

For the privilege of entering Bryan Park during the three-week azalea blossom period, there shall be imposed upon and collected from the operator of each vehicle a fee of $0.50 per vehicle. Normally, the azalea blossom period commences on or after March 15 and terminates on or before April 30, depending upon weather conditions, but the actual period shall be determined and shall be fixed by directive of the Director of Parks, Recreation and Community Facilities.

(Code 1993, § 8-231; Code 2004, § 26-426; Code 2015, § 8-308)

Sec. 8-309. Entry fee on weekdays, Monday through Friday, excluding holidays.

For the privilege of entering Bryan Park during the period commencing April 1 and continuing through September 30 of each year, with the exclusion of the three-week azalea blossom period as provided in Section 8-308, on any weekday, Monday through Friday, with the exclusion of holidays falling on any of such days, there shall be imposed upon and collected from the operator of each vehicle a fee of $2.00 per vehicle.

(Code 1993, § 8-232; Code 2004, § 26-427; Code 2015, § 8-309)

Sec. 8-310. Entry fee on Saturdays, Sundays and holidays.

For the privilege of entering Bryan Park during the period commencing April 1 and continuing through September 30 of each year, with the exclusion of the three-week azalea blossom period as provided in Section 8-308, on any Saturday, Sunday or holiday, there shall be imposed upon and collected from the operator of each vehicle a fee of $3.00 per vehicle.

(Code 1993, § 8-233; Code 2004, § 26-428; Code 2015, § 8-310)

Sec. 8-311. Exemption from payment of fees.

(a) Vehicles displaying a current City registration decal; County residents and guests of such County residents whose only means of access to their residences is by way of and through Bryan Park; and all persons holding licenses from the City for the operation of concessions in Bryan Park, persons certified as employees of such licensees, and vehicles operated by such licensees or employees shall be exempted from the payment of the fees imposed in Sections 8-308 through 8-310.

(b) The Director of Parks, Recreation and Community Facilities may from time to time, when conditions warrant, waive imposition and collection of the fees provided for in Sections 8-308 through 8-310.

(Code 1993, § 8-234; Code 2004, § 26-429; Code 2015, § 8-311)

Secs. 8-312—8-340. Reserved.

DIVISION 3. FESTIVAL PARK

Sec. 8-341. Designated; maintenance.

The Festival Park is that park area located between the Sixth Street Marketplace and the coliseum. Maintenance of the Festival Park shall be the responsibility of the Director of Parks, Recreation and Community Facilities. The sections of this article shall apply to the Festival Park except as specifically provided in this division. A violation of any section within this division shall constitute a Class 1 misdemeanor.

(Code 1993, § 8-241; Code 2004, § 26-451; Code 2015, § 8-341)

Sec. 8-342. Playing radios without headphones.

It shall be unlawful for any person to play or use any radio, tape player, phonograph, megaphone or any other equipment that produces recorded, broadcast or other amplified sound in the Festival Park. This section shall not prevent the use of radios, tape players or phonographs or any other equipment that produces recorded, broadcast or other amplified sound if the user of such equipment wears headphones and such equipment can be heard by no other person in the park. This section shall not apply to events approved or sponsored by the Richmond Redevelopment and Housing Authority, its designee or the City.

(Code 1993, § 8-242; Code 2004, § 26-452; Code 2015, § 8-342)

Sec. 8-343. Sales of food, beverages or merchandise.

No person shall sell or offer for sale any food, beverage or merchandise within the Festival Park or within 100 feet of the Festival Park. The Director of Parks, Recreation and Community Facilities shall not grant concessions for the Festival Park. Sales of food, beverage or merchandise shall be permitted only in connection with events approved or sponsored by the Richmond Redevelopment and Housing Authority, its designee or the City.

(Code 1993, § 8-243; Code 2004, § 26-453; Code 2015, § 8-343)

Sec. 8-344. Skateboards prohibited.

No person shall use a skateboard within the Festival Park.

(Code 1993, § 8-244; Code 2004, § 26-454; Code 2015, § 8-344)

Sec. 8-345. Unauthorized vehicles.

No person, unless specifically authorized, shall drive any vehicle onto the grounds of the Festival Park. This section shall not apply to persons authorized to operate Department of Police vehicles, City vehicles used for maintenance, emergency vehicles or vehicles traveling along paved surfaces to deliver goods or equipment in connection with an event or activity approved or sponsored by the Richmond Redevelopment and Housing Authority, its designee or the City.

(Code 1993, § 8-245; Code 2004, § 26-455; Code 2015, § 8-345)

Cross reference—Traffic and vehicles, Ch. 27.

Sec. 8-346. Animals.

It shall be unlawful for any person to take any dog, horse or other animal under such person's control into the Festival Park. This section shall not apply to dogs or horses used by the members of the Department of Police. Guide dogs, hearing dogs and service dogs, as defined in Code of Virginia, § 51.5-44, shall likewise not be subject to this section, provided that the liability of the owner of any such dog shall be as set forth in Code of Virginia, § 51.5-44.

(Code 1993, § 8-246; Code 2004, § 26-456; Code 2015, § 8-346)

Cross reference—Animals, Ch. 4; dogs in parks, §§ 4-245, 4-246.

Sec. 8-347. Hours open to the public.

The Festival Park shall open at sunrise and shall close at sunset each day of the year. It shall be unlawful for any person other than a police officer of the City or the State, an employee of the Department of Parks, Recreation and Community Facilities acting in the scope of employment, or any other employee of the City acting in the scope of employment and having authorization from the Director of Parks, Recreation and Community Facilities to go on, to go into or to occupy the Festival Park when the Festival Park is closed as provided in this section.

(Code 1993, § 8-247; Code 2004, § 26-457; Code 2015, § 8-347; Ord. No. 2013-206-196, § 1, 10-28-2013)

Sec. 8-348. Tables or structures.

No person shall place any table or erect any structure within the Festival Park. This section shall not apply to events approved or sponsored by the Richmond Redevelopment and Housing Authority, its designee or the City.

(Code 1993, § 8-248; Code 2004, § 26-458; Code 2015, § 8-348)

Sec. 8-349. Throwing balls, Frisbees or other objects.

No person shall throw any ball, Frisbee or any other object within the Festival Park.

(Code 1993, § 8-249; Code 2004, § 26-459; Code 2015, § 8-349)

Secs. 8-350—8-371. Reserved.

DIVISION 4. PARK PERMITS

Sec. 8-372. Issuance or denial; general terms and conditions.

(a) The Director of Parks, Recreation and Community Facilities is authorized to issue permits for the exclusive use of any City park or portion thereof, any park house or park facility, any playground, any recreation center, or any public open space, subject to the following general terms and conditions:

(1) The person proposing such use shall file with the Department of Parks, Recreation and Community Facilities a written application for a permit. The application shall contain all information required by the Director of Parks, Recreation and Community Facilities in order to determine the nature and appropriateness of the proposed use and to ensure compliance with the terms and conditions for issuance of a permit.

(2) The application for each permit shall be accompanied by payment of the applicable permit fee established by action of the Council. The Director shall maintain a current schedule of all permit fees charged.

(3) Permit applications shall be granted on a first come, first served basis, and applications shall not be granted unless filed within a reasonable period of time in advance of the event. That period shall be no less than 30 days and may be longer, within the discretion of the Director.

(4) Each permit issued by the Director shall state the following:

a. The name, address, and phone number of the permittee; if the permittee is an organization, the name of the individual who will be the authorized representative of the permittee at the permit site during the effective period of the permit.

b. The date and time period during which the permit is effective.

c. The specific City property for which exclusive use is authorized.

d. Whether the permittee can conduct fundraising, and any conditions or restrictions thereon.

e. Whether amplified music will be allowed, and any conditions or restrictions thereon.

f. Whether alcoholic beverages will be permitted, and any conditions or restrictions thereon.

g. What security personnel, if any, are required.

h. Whether the erection of any tents or structures will be permitted, and any conditions or restrictions thereon.

i. Whether the sale of food or merchandise shall be permitted, and any conditions or restrictions thereon.

(5) Permits may contain reasonable restrictions to protect the physical integrity of City parks and equipment; to protect against disorderly or disruptive conduct or excessive noise which may adversely affect any nearby neighborhood; and to ensure the public safety, welfare, and interest. Such restrictions may include the requirement that off-duty police be hired to maintain security and order.

(6) The Director may require adequate insurance to protect the City from liability based on the criteria that any special event:

a. Has attendance projected at over 500 persons.

b. Offers for sale or public consumption food or foodstuffs.

c. Involves airborne objects such as hot-air balloons.

d. Includes fireworks or pyrotechnic displays.

e. Includes vehicle traffic rerouting or street closures.

f. Includes the sale of merchandise.

g. Includes the sale or consumption of alcoholic beverages.

h. Includes parades or marches on public rights-of-way.

i. Includes the erection of tents or stages.

(7) The Director shall require adequate surety against damage and to cover any preparation and cleanup costs that may be required of the City and to cover possible damage to City property.

(8) The Director may deny a permit to any applicant upon determining that the applicant has not complied with any requirement in this section or if the proposed use is likely to comprise a public nuisance or poses a clear and present danger to public safety.

(9) The Director shall deny a permit if the applicant does not agree to comply with any other applicable requirements of law.

(10) No permit shall be granted for any use which, in the discretion of the Director, conflicts with another public or private function.

(11) The Director shall make reasonable efforts to inform the neighborhoods affected of any pending applications for park permits. Such efforts may be made through neighborhood or civic associations.

(12) The Director may summarily revoke a permit upon determining that any requirement of the permit will not be complied with or is not being complied with.

(b) Except as expressly provided otherwise, the general terms and conditions in subsection (a) of this section shall apply in addition to any specific terms and conditions established under this article or other enactment of the Council pertaining to authorization for use of any City park or portion thereof, any park house or park facility, any playground, any recreation center, or any public open space.

(Code 1993, § 8-251; Code 2004, § 26-481; Code 2015, § 8-372)

Sec. 8-373. Unlawful actions.

(a) It shall be unlawful for any person, whose permit issued pursuant to this division has been revoked, to continue any activity that had been authorized by the permit.

(b) It shall be unlawful for any person to remain upon the property covered by a permit after having being requested to leave by the permittee. This subsection shall not apply to public officials engaged in the performance of their official duties.

(Code 1993, § 8-252; Code 2004, § 26-482; Code 2015, § 8-373)

Sec. 8-374. Rights granted.

A permit issued pursuant to this division shall accord the holder thereof the exclusive right to the use, possession, and enjoyment of the property covered during the time covered.

(Code 1993, § 8-253; Code 2004, § 26-483; Code 2015, § 8-374)

Sec. 8-375. Review by City Council.

The Director of Parks, Recreation and Community Facilities shall promptly inform the City Council of the grant or denial of all park permits. The Council may, by resolution, deny or amend any permit which has been issued over significant neighborhood opposition, or it may grant with or without conditions any permit which has been denied.

(Code 1993, § 8-254; Code 2004, § 26-484; Code 2015, § 8-375)

Secs. 8-376—8-393. Reserved.

DIVISION 5. COMMUNITY GARDENS

Sec. 8-394. Purpose.

The purpose of this division is to promote an improved quality of life, a healthy environment, economic development and job creation for residents of the City through urban agriculture.

(Code 2004, § 26-491; Code 2015, § 8-394; Ord. No. 2011-50-45, § 1, 3-28-2011)

Sec. 8-395. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them

in this section, except where the context clearly indicates a different meaning:

City property means City-owned real estate or any portion thereof that may be used as a Community Garden, as designated by resolution of the City Council.

Community Garden means City property used in accordance with the provisions of this division to grow fruits, vegetables, flowers, herbs, wood products or native or ornamental plants for noncommercial purposes, in which there is no exchange of goods for monetary value.

Community Garden Coordinator means a City employee appointed by the Chief Administrative Officer to manage the program for which this division provides.

Permittee means:

(1) A legal entity, except an individual, registered and in good standing with the Commonwealth of Virginia State Corporation Commission;

(2) An unincorporated association; or

(3) A governmental organization which holds a permit issued in accordance with this division.

(Code 2004, § 26-492; Code 2015, § 8-395; Ord. No. 2011-50-45, § 1, 3-28-2011)

Cross reference—Definitions generally, § 1-2.

Sec. 8-396. Appointment of Community Garden Coordinator; designation of parcels; Community Garden Coordinator duties.

(a) *Appointment*. The Chief Administrative Officer shall appoint a Community Garden Coordinator, who may be a City employee with other duties.

(b) *Designation of parcels*. The City Council, upon the recommendation of the Chief Administrative Officer, may, by resolution, designate the parcels of City property that may be used as Community Gardens. No other City property shall be used as a Community Garden.

(c) *Community Garden Coordinator duties*. The Community Garden Coordinator shall maintain a list of City property designated by the Council for use as Community Gardens for review and inspection by the public. The Community Garden Coordinator is authorized to issue permits, revocable at-will for any reason, upon due notice, by either the City or the permittee, to permittees for the annual use of City property for a period not to exceed 12 months from the date of any such issuance, for the purpose of operating a Community Garden. The Community Garden Coordinator shall, on a regular basis, as the Community Garden Coordinator shall determine, inspect all Community Gardens for compliance with the provisions of this division, the rules, regulations and guidelines issued in accordance with this division and any other applicable requirements of law.

(Code 2004, § 26-493; Code 2015, § 8-396; Ord. No. 2011-50-45, § 1, 3-28-2011)

Sec. 8-397. Rules, regulations and guidelines for administration of division.

The Chief Administrative Officer may issue, modify and enforce any rules, regulations or guidelines, consistent with this division and other applicable law, necessary to carry out the requirements and purposes of this division.

(Code 2004, § 26-494; Code 2015, § 8-397; Ord. No. 2011-50-45, § 1, 3-28-2011)

Sec. 8-398. Eligibility criteria.

(a) *Legal entities*. Any legal entity, except an individual, registered and in good standing with the Commonwealth of Virginia State Corporation Commission shall be eligible to file an application for a permit in accordance with the provisions of this division; provided, however, that such application must be filed by an authorized representative of such organization. Such authorization, supporting the application for a permit in accordance with this division and designating the authorized representative for the purpose of filing such application, shall be demonstrated in the manner in which the bylaws or other governing documents of such organization may require for official actions of the organization. The organization shall present to the Community Garden Coordinator any documentation as the Community Garden Coordinator may require, as permitted by law, to verify that the organization is registered and in good standing with the Commonwealth of Virginia State

Corporation Commission and to process the application in accordance with the provisions of this division.

(b) *Unincorporated associations.* Any unincorporated association shall be eligible to file an application for a permit in accordance with the provisions of this division; provided, however, that such application must be filed by an authorized representative of the organization. Such authorization, supporting the application for a permit in accordance with this division and designating the authorized representative for the purpose of filing such application, shall be demonstrated in the manner in which the bylaws or other governing documents of such organization may require for official actions of the organization. The organization shall present to the Community Garden Coordinator any documentation as the Community Garden Coordinator may require, as permitted by law, to process the application in accordance with the provisions of this division.

(c) *Governmental organizations.* Any governmental organization shall be eligible to file an application for a permit in accordance with the provisions of this division; provided, however, that such application must be filed by an authorized representative of the organization. Such authorization, supporting the application for a permit in accordance with this division and designating the authorized representative for the purpose of filing such application, shall be demonstrated in the manner in which the applicable laws, rules or regulations of such organization may require for official actions of the organization. The organization shall present to the Community Garden Coordinator any documentation as the Community Garden Coordinator may require, as permitted by law, to process the application in accordance with the provisions of this division.

(Code 2004, § 26-495; Code 2015, § 8-398; Ord. No. 2011-50-45, § 1, 3-28-2011)

Sec. 8-399. Issuance and denial of permits.

Permits issued in accordance with this division shall be subject to the following general terms and conditions:

(1) The applicant requesting the use of City property as a Community Garden shall file with the Community Garden Coordinator an application, including a demonstration of support for the application in accordance with the rules, regulations and guidelines issued pursuant to Section 8-397, to obtain a permit for such use to ensure that the applicant meets the requirements of this division. The applicant shall provide to the Community Garden Coordinator the information the Community Garden Coordinator requires, as permitted by law, to ensure compliance with the provisions of this division for issuance of the permit.

(2) Each initial application and renewal application to obtain or renew a permit shall be accompanied by a payment of a fee. The fee for an initial application shall be $50.00, and the fee for a renewal application shall be $25.00.

(3) Each initial application and renewal application to obtain or renew a permit shall be accompanied by a certificate of insurance demonstrating evidence of general liability insurance coverage in the amount of at least $250,000.00, naming the City as an additional insured and indicating that the City will receive at least 30 days' notice of cancellation or material modification of the policy. In the case of a governmental organization, however, each such initial application and renewal application shall be accompanied by either a certificate of insurance demonstrating evidence of general liability insurance coverage in the amount of at least $250,000.00, naming the City as an additional insured and indicating that the City will receive at least 30 days' notice of cancellation or material modification of the policy, or written verification that such organization is self-insured in the amount of at least $250,000.00.

(4) Permits shall be granted on a first come, first served basis. Initial applications must be filed no later than March 30 of each year to obtain a permit for the year in which such application is filed, except that applications to obtain a permit for the year 2011 shall be accepted until May 31, 2011. Renewal applications must be filed by November 30 of each year to obtain a permit for the following year. All applications shall be reviewed according to the provisions of this division and the rules, regulations and guidelines issued by the Chief Administrative Officer.

(5) Each permit issued by the Community Garden Coordinator shall state the following:

a. The name of the permittee and the name, address and phone number of the authorized representative of the permittee, if applicable.

b. The date and time period during which the permit shall be effective.

c. The specific City property for which use is authorized.

d. Whether the erection of any structures will be permitted and any conditions or restrictions thereon.

e. Any other information, as permitted by law, that the Community Garden Coordinator deems necessary for the administration of the permit.

(6) Permits shall incorporate by reference the provisions of this division and the rules, regulations and guidelines issued by the Chief Administrative Officer.

(7) The permittee shall execute a release, waiver of liability and indemnification agreement prior to the issuance of any permit. This subsection shall not apply to governmental organizations.

(8) Upon revocation or expiration of a permit, the permittee shall be responsible for ensuring that the City property used as a Community Garden is restored to the same condition as it existed at the time the permit was issued to the permittee in accordance with the requirements of this division, any provision of the rules, regulations and guidelines issued in accordance with this division or any other applicable requirements of law or for reimbursing the City for any actual costs incurred to do so.

(9) The Community Garden Coordinator shall deny a permit to any applicant upon determining that the applicant has not complied with any requirement or if the Community Garden Coordinator determines that the proposed use is for a commercial purpose or likely to comprise a public nuisance.

(Code 2004, § 26-496; Code 2015, § 8-399; Ord. No. 2011-50-45, §§ 1, 3, 3-28-2011)

Sec. 8-400. Unlawful actions.

(a) It shall be unlawful for any permittee whose permit has been revoked to continue any activity that is no longer authorized by such permit or is a violation of this division or any applicable law or regulation.

(b) It shall be unlawful for any person to remain upon any City property covered by a permit issued pursuant to this division after the permittee has asked such person to leave. This subsection shall not apply to City officers, employees, agents and contractors engaged in the performance of their official duties.

(Code 2004, § 26-497; Code 2015, § 8-400; Ord. No. 2011-50-45, § 1, 3-28-2011)

Sec. 8-401. Use granted.

A permit issued pursuant to this division shall permit the holder thereof to use the City property covered and for the period specified by such permit, in accordance with the provisions of this division, except as may be revoked at-will for any reason, upon due notice, by either the City or the permittee.

(Code 2004, § 26-498; Code 2015, § 8-401; Ord. No. 2011-50-45, § 1, 3-28-2011)

Secs. 8-402—8-430. Reserved.

ARTICLE IX. CITY MARKETS

Sec. 8-431. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Goods, wares and merchandise means those products usually offered for retail sale.

Market areas means the market areas described in Section 8-433.

Products includes, but is not limited to, farm or domestic food products, including vegetables, fruits, meats, poultry, seafood, milk, butter, cream, other dairy products, candies, bakery products, eggs, flowers and seasonal greenery; and further includes, but is not limited to, metal works, arts, handcrafts, glass and pottery items, leather and woolen goods, textiles and antiques and collectibles, imported items and nonfarm items.

Vendor means every person who sells or offers for sale products, goods, wares or merchandise from premises owned or leased by such person, located in the market areas.

(Code 1993, § 8-256; Code 2004, § 26-516; Code 2015, § 8-431; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Cross reference—Definitions generally, § 1-2.

Sec. 8-432. Market areas established.

The areas defined in Section 8-433 as market areas are established and set apart for the sale by vendors of products, goods, wares and merchandise and as approved by the Chief Administrative Officer.

(Code 1993, § 8-257; Code 2004, § 26-517; Code 2015, § 8-432; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-433. Description of market areas.

The market areas for the City shall be as follows:

(1) *Farmers' Market.* The boundaries of the Farmers' Market area and the streets forming parts thereof shall be as follows:

a. The paved parking areas in the center of 17th Street between Main Street and Franklin Street and between Franklin Street and Grace Street and the sidewalks contiguous thereto;

b. Grace Street, including the sidewalks on both sides thereof, between the east line of 17th Street and the west line of 20th Street; and

c. Nineteenth Street, including the sidewalks on both sides thereof, between the north line of Main Street and the south line of Grace Street.

(2) *Other market areas.* Other market areas and the boundaries of such market areas and any streets forming parts thereof may be created by the Council by ordinance.

(Code 1993, § 8-258; Code 2004, § 26-518; Code 2015, § 8-433)

Sec. 8-434. Management and control of market areas.

The management and control of the market areas defined in Section 8-433, except for maintenance of sidewalks, is vested in the Chief Administrative Officer.

(Code 1993, § 8-259; Code 2004, § 26-519; Code 2015, § 8-434; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-435. Use of streets or sidewalks by vendors.

It shall be unlawful for any vendor to display or offer products, goods, wares and merchandise for sale on any part of the streets or sidewalks in the market areas, except with prior approval of the Chief Administrative Officer, or a designee thereof. Use of the sidewalk area contiguous to the property occupied by the vendor shall not exceed one-third of the width of the sidewalk and in no case shall exceed three feet.

(Code 1993, § 8-260; Code 2004, § 26-520; Code 2015, § 8-435; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Cross reference—Sidewalk vendors, § 6-453 et seq.; streets, sidewalks and public ways, Ch. 24.

Sec. 8-436. Credentials for State growers.

Credentials which authenticate status as a State grower shall be possession of a certificate issued by the State farm extension agent and any and all certificates required to transact business in the market areas, which are subject to verification by the appropriate authority or agency having jurisdiction.

(Code 1993, § 8-261; Code 2004, § 26-521; Code 2015, § 8-436)

Sec. 8-437. Fees for using market areas.

(a) The fees for use of the market areas shall be based upon the size of the vehicle, when applicable, and upon the space which the vendor is authorized by the Chief Administrative Officer, or a designee thereof, to use and shall be as follows:

(1) When the Farmer's Market is open for business, the 76 booth spaces in the open-air shed of the Farmers' Market in the block between Main Street and Franklin Street shall be leased for the fee of $10.00 each, per day. The special events fee shall be $30.00 per stall, per event.

(2) For the privilege of parking a vehicle with a gross weight in excess of three tons, but having a body

length of less than 20 feet, within the market areas at an appropriate space to be assigned for such vehicle by the Chief Administrative Officer, or a designee thereof, there shall be imposed a fee of $10.00 per day, which fee shall be payable in advance.

(3) For the privilege of parking any vehicle or any combination of vehicles, trailers or semitrailers, the length of which exceeds a body length of 20 feet, within the market areas at an appropriate space to be assigned by the Chief Administrative Officer, or a designee thereof, there shall be imposed a fee of $20.00 per day, which fee shall be payable in advance.

(4) Vendors requesting use of a 110-volt-20-amp circuit to connect an approved electrical appliance into the market's electrical service shall pay a fee of $10.00 per day for each circuit connection. There shall be no sharing of electrical circuits between vendors.

(5) Vendors requesting use of a 208-volt circuit or 240-volt with a rating of 20 amps or more for the purpose of connecting an approved appliance into the market's electrical service shall pay a fee of $10.00 per day for each circuit connection. There shall be no sharing of electrical circuits between vendors.

(b) Notwithstanding subsection (a) of this section, a vehicle parking space may be provided within the market areas by the Chief Administrative Officer, or a designee thereof, to vendors leasing two or more booth spaces for a period of six months or longer, at no charge.

(c) The Chief Administrative Officer, or a designee thereof, may negotiate the fee structure in subsection (a) of this section to accommodate special arrangements for use of the market areas and if deemed appropriate may reassign leased or rented selling or booth spaces within the market areas to accommodate such arrangements.

(Code 1993, § 8-262; Code 2004, § 26-522; Code 2015, § 8-437; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-125-73, § 1, 5-23-2005; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-438. Prohibited acts of persons using leased space.

It shall be unlawful for any person using leased space in any building in the market areas to:

(1) Fail, refuse or neglect to keep the leased space in a clean and sanitary condition at all times;

(2) Fail, refuse or neglect to dispose of refuse in a manner or at the place required by the Chief Administrative Officer, or a designee thereof;

(3) Store or display products for sale in a manner not approved by the Chief Administrative Officer, or a designee thereof;

(4) Use any space designated in the market areas by the Chief Administrative Officer, or a designee thereof, for use by the public for any purpose, except for the purpose of ingress to and egress from the leased space;

(5) Sublease the space or transfer or assign the lease to another; or

(6) Violate or fail, refuse or neglect to observe and comply with any appropriate rule or regulation adopted by the Chief Administrative Officer, or a designee thereof, in accordance with this article and relating to the use of the leased space or the market areas generally.

(Code 1993, § 8-263; Code 2004, § 26-523; Code 2015, § 8-438; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-439. Rules and regulations.

(a) The Chief Administrative Officer, or a designee thereof, shall adopt rules and regulations designating places in the streets in the market areas or in any of them where vendors may sell or offer products for sale and prescribing the time and manner in which products may be sold, displayed or offered for sale. Such rules and regulations may be repealed, changed or modified at any time. In so doing, the Chief Administrative Officer, or a designee thereof, shall give due consideration to the safe and convenient use of the streets by vehicles and pedestrians, the use thereof by police and fire vehicles and ambulances, and the safe and convenient use thereof by vendors and their customers for the purpose of selling and buying products. It shall be unlawful for any farmer to violate or fail, refuse or neglect to observe and comply with any such rule or regulation.

(b) Nothing contained in this section shall be construed to divest the Chief of Police of the power conferred

upon the Chief of Police by the Charter or other provisions of law relating to traffic, but the Chief of Police shall consult with the Chief Administrative Officer, or a designee thereof, before exercising such power so that the objects and purposes of this section shall be reasonably attained and so that the rules and regulations adopted by the Chief Administrative Officer, or a designee thereof, will not conflict with the acts of the Chief of Police in the exercise of such power.

(c) Failure to comply with any rule or regulation may, at the discretion of the Chief Administrative Officer, or a designee thereof, result in exclusion from the market area for an appropriate period of time.

(d) The Chief Administrative Officer, or a designee thereof, shall adopt rules and regulations that shall encompass the following:

(1) Policies and procedures for overall operation of the market areas.

(2) Restrictions of the quantities and types of products, goods, wares and merchandise displayed or sold within the market areas to ensure appropriate variety and availability to consumers.

(3) Specification of the type, color and design of permits used to distinguish different categories of products offered for sale, which may include a special designation of State growers.

(Code 1993, § 8-264; Code 2004, § 26-524; Code 2015, § 8-439; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-440. Sanitation; disposal of refuse.

Every vendor selling or offering products, goods, wares or merchandise for sale in the market areas shall keep the space in the street so used, to include the sidewalk contiguous to the owned or leased space, in a clean and sanitary condition at all times and shall dispose of refuse in a manner and at the place required by the Chief Administrative Officer, or a designee thereof.

(Code 1993, § 8-265; Code 2004, § 26-525; Code 2015, § 8-440; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-441. Designation of days and hours market areas open and closed.

The Chief Administrative Officer, or a designee thereof, shall adopt rules or regulations designating the days the market areas or any part of them shall be used by vendors selling or offering items for sale or otherwise open to the public and the time on such days when the market areas or any part of them shall be opened and closed.

(Code 1993, § 8-266; Code 2004, § 26-526; Code 2015, § 8-441; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2018-203, § 1, 9-24-2018)

Sec. 8-442. Breaking, damaging or destroying City property.

It shall be unlawful for any person to willfully break, damage or destroy any property belonging to the City in the market areas or used in connection with the use, maintenance and operation thereof.

(Code 1993, § 8-267; Code 2004, § 26-527; Code 2015, § 8-442)

Cross reference—Offenses against property, § 19-77 et seq.

Sec. 8-443. Compliance required of persons selling products.

Every person selling or offering products for sale in the market areas shall observe, comply with and be bound by this article; all other sections of this Code; and all other laws, ordinances and resolutions and all rules and regulations made and promulgated pursuant thereto relating to the sale or offering of products or other goods, wares, or merchandise for sale, and it shall be unlawful for any person to violate or to fail, refuse or neglect to do so.

(Code 1993, § 8-268; Code 2004, § 26-528; Code 2015, § 8-443)

Sec. 8-444. Removal of products, goods, wares or merchandise by person in violation.

The Chief Administrative Officer, or a designee thereof, and any police officer may order any person to remove the food or other products, goods, wares, or merchandise offered or displayed for sale or intended to be offered or displayed for sale by such person and any vehicle used in connection therewith from the market areas when such person is found violating this article or any rule or regulation adopted pursuant to this chapter. It shall be unlawful for any such person to fail, refuse or neglect to obey such order.

(Code 1993, § 8-269; Code 2004, § 26-529; Code 2015, § 8-444; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 8-445. Issuance and display of permits.

The Chief Administrative Officer, or a designee thereof, shall, upon leasing space in the market areas to a person, issue to such person a permit evidencing the right to occupy and utilize such space. No person shall use or occupy a space in the market areas unless in possession of a permit, and the person shall post and exhibit such permit in the manner prescribed by the Chief Administrative Officer, or a designee thereof.

(Code 1993, § 8-270; Code 2004, § 26-530; Code 2015, § 8-445; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Secs. 8-446—8-473. Reserved.

ARTICLE X. DOWNTOWN RIVERFRONT CANAL AREA*

***Cross reference—**Ports and harbors, Ch. 20.

Sec. 8-474. Designated.

The Downtown Riverfront Canal Area, for purposes of this article, shall refer to that certain property owned by the City in the vicinity of the Downtown Riverfront Canal System and leased to the Richmond Riverfront Corporation for its maintenance and operation and shall also include the bed, waters and walls of the Haxall Canal and the James River and Kanawha Canal, as to which the City maintains exclusive control. The Downtown Riverfront Canal Area is generally described as the area encompassing Brown's Island; the restored canal segments and adjoining walkway areas, exclusive of public right-of-way, from the vicinity of Sixth Street on the west to the vicinity of 18th Street on the east; and the canal segment between the floodwall opening and the Great Shiplock. The Downtown Riverfront Canal Area is more particularly designated as the property shown shaded on Department of Public Works drawing No. P-23226, dated December 2, 1997, and entitled "Controlled Public Access Area for Canal & Related Uses," along with the Haxall Canal and James River and Kanawha Canal segments referred to in this section, referred to as "the canals."

(Code 1993, § 8-280; Code 2004, § 26-561; Code 2015, § 8-474)

Sec. 8-475. Unauthorized vehicles.

It shall be unlawful for any person, unless specifically authorized, to drive any vehicle onto the sidewalks or grounds of the Downtown Riverfront Canal Area. This section shall not apply to persons authorized to operate City or Richmond Riverfront Corporation vehicles used for maintenance, emergency response vehicles, or vehicles traveling along paved surfaces to deliver goods or equipment in connection with an event or activity approved or sponsored by the Richmond Riverfront Corporation or its permittee.

(Code 1993, § 8-281; Code 2004, § 26-562; Code 2015, § 8-475)

Cross reference—Traffic and vehicles, Ch. 27.

Sec. 8-476. Unauthorized boating.

It shall be unlawful for any person to operate or dock any boat in the waters within the Downtown Riverfront Canal Area, except with the express written permission of the Richmond Riverfront Corporation.

(Code 1993, § 8-282; Code 2004, § 26-563; Code 2015, § 8-476)

Sec. 8-477. Animals.

It shall be unlawful for any person to take any animal under such person's control into the Downtown Riverfront Canal Area. This section shall also not apply to:

(1) Dogs or horses used by the members of the Department of Police;

(2) Dogs restrained by a leash, provided that the person in control of the dog immediately removes any waste or excreta deposited by the dog; and

(3) Those animals defined in Code of Virginia, § 51.5-44, provided that the liability of the owner of any such animal shall be as set forth in Code of Virginia, § 51.5-44.

(Code 1993, § 8-283; Code 2004, § 26-564; Code 2015, § 8-477; Ord. No. 2005-292-248, § 1, 11-14-2005)

Cross reference—Animals, Ch. 4.

State law reference—Service animals for the disabled, Code of Virginia, § 51.5-44.

Sec. 8-478. Swimming, diving, jumping or wading in canals.

It shall be unlawful for any person to dive or jump into or to swim or wade in the canals within the Downtown Riverfront Canal Area, except under emergency circumstances.

(Code 1993, § 8-284; Code 2004, § 26-565; Code 2015, § 8-478)

Sec. 8-479. Feeding birds, animals or aquatic life.

It shall be unlawful for any person to feed birds, animals or aquatic life within the Downtown Riverfront Canal Area.

(Code 1993, § 8-285; Code 2004, § 26-566; Code 2015, § 8-479)

Cross reference—Animals, Ch. 4.

Sec. 8-480. Fishing in canals.

It shall be unlawful for any person to fish in the canals within the Downtown Riverfront Canal Area, whether from the sidewalk areas, bridges, canal boats, boat maintenance facility, or any other access location.

(Code 1993, § 8-286; Code 2004, § 26-567; Code 2015, § 8-480)

Sec. 8-481. Posting of signs or advertising.

It shall be unlawful for any person to paint, mark or write on or post or otherwise affix to or upon a controlled public accessway within the Downtown Riverfront Canal Area or any fixture thereon any sign or other form of commercial, noncommercial, or political advertising, promotion, solicitation, communication, or display. It shall furthermore be unlawful for any person to cause or with knowledge permit such actions to be taken on such person's behalf.

(Code 1993, § 8-287; Code 2004, § 26-568; Code 2015, § 8-481)

Sec. 8-482. Throwing trash, litter or debris into canals or upon sidewalks or open areas.

It shall be unlawful for any person to throw, sweep or otherwise deposit trash, litter or debris of any kind into the canals or upon sidewalks or open areas within the Downtown Riverfront Canal Area.

(Code 1993, § 8-288; Code 2004, § 26-569; Code 2015, § 8-482)

Cross reference—Solid waste, Ch. 23; streets, sidewalks and public ways, Ch. 24.

Sec. 8-483. Glass bottles or containers.

It shall be unlawful for any person to take any glass bottle or glass food or beverage container of any type into the Downtown Riverfront Canal Area, except with the express written permission of the Richmond Riverfront Corporation.

(Code 1993, § 8-289; Code 2004, § 26-570; Code 2015, § 8-483)

Sec. 8-484. Throwing, kicking or hitting balls, frisbees or similar objects.

It shall be unlawful for any person to throw, kick, or hit any ball, Frisbee or any other similar recreational object within the Downtown Riverfront Canal Area, except with the express written permission of the Richmond Riverfront Corporation.

(Code 1993, § 8-290; Code 2004, § 26-571; Code 2015, § 8-484)

Sec. 8-485. Bicycling, skateboarding or roller blading.

It shall be unlawful for any person to ride a bicycle, to skateboard, to roller blade or roller skate, or to engage in any similar activity within the Downtown Riverfront Canal Area, except under emergency circumstances or otherwise with the express written permission of the Richmond Riverfront Corporation.

(Code 1993, § 8-291; Code 2004, § 26-572; Code 2015, § 8-485)

Sec. 8-486. Sales of food, beverages or merchandise.

It shall be unlawful for any person to sell or offer for sale any food, beverage or merchandise within the Downtown Riverfront Canal Area or on any public property or public right-of-way within 100 feet of the Downtown Riverfront Canal Area. However, within the Downtown Riverfront Area, such activity shall be permitted in accordance with a concession, license, permit or other express written authorization obtained from the Richmond Riverfront Corporation.

(Code 1993, § 8-292; Code 2004, § 26-573; Code 2015, § 8-486)

Sec. 8-487. Unauthorized structures or equipment.

It shall be unlawful for any person to erect a booth, stage, platform or any other structure or to place a table or other equipment within the Downtown Riverfront Canal Area for any purpose, except with the express written approval of the Richmond Riverfront Corporation.

(Code 1993, § 8-293; Code 2004, § 26-574; Code 2015, § 8-487)

Sec. 8-488. Administrative authorization of permanent encroachments.

The Director of Public Works may authorize any permanent encroachments within the Downtown Riverfront Canal Area pursuant to the procedures set forth in Section 24-110(b)(1) for the administrative approval of encroachments.

(Code 1993, § 8-293.1; Code 2004, § 26-575; Code 2015, § 8-488)

Sec. 8-489. Design and operation of authorized canal boats and barges; load capacity.

Canal boats and barges operating on the waters of the James River and Kanawha Canal, in accordance with the express written authorization granted by the Richmond Riverfront Corporation or the City, shall be designed, built, maintained, and operated in a manner consistent with protecting public safety. Any boat or barge placed in service on the James River and Kanawha Canal shall carry no more than 40 passengers. The load capacity of each boat or barge shall be posted in a readily visible location on the vessel.

(Code 1993, § 8-294; Code 2004, § 26-576; Code 2015, § 8-489)

Secs. 8-490—8-516. Reserved.

ARTICLE XI. BOSHER'S DAM AREA

Sec. 8-517. Designated.

The Bosher's Dam Area, for the purposes of this article, shall refer to that certain property owned by the City in the vicinity of Bosher's Dam and shall also include the fish passage, banks, open areas, dam and appurtenances of the James River, as to which the City maintains exclusive control. The Bosher's Dam Area is generally described as the area encompassing Bosher's Dam, its wing walls, the fish passage and the lands adjacent thereto. The Bosher's Dam Area is more particularly designated as the property shown on Department of Public Works drawing Nos. 0-22614-A entitled "Survey of One Parcel Adjoining the Northside of the James River at Bosher's Dam for the Department of Public Utilities" dated December 2, 1996, and 0-22615 entitled "Survey of Four Parcels Adjoining the Southside of the James River at Bosher's Dam for the Department of Public Utilities," dated July 28, 1994.

(Code 1993, § 8-297; Code 2004, § 26-611; Code 2015, § 8-517)

Sec. 8-518. Unauthorized vehicles.

It shall be unlawful for any person, unless specifically authorized, to drive any vehicle onto the grounds of the Bosher's Dam Area. This section shall not apply to persons authorized to operate City, Henrico County, Commonwealth, Virginia Power or Columbia Gas vehicles used for operation, maintenance, or emergency response except with the express written permission of the City.

(Code 1993, § 8-298; Code 2004, § 26-612; Code 2015, § 8-518)

Sec. 8-519. Unauthorized boating.

It shall be unlawful for any person to dock or moor any boat on or from the fish passage, Bosher's Dam or its

appurtenances, except with the express written permission of the City.

(Code 1993, § 8-299; Code 2004, § 26-613; Code 2015, § 8-519)

Sec. 8-520. Swimming, diving, jumping or wading in fish passage.

It shall be unlawful for any person to walk on, dive or jump into or to swim or wade in the fish passage or to walk on, dive or jump from Bosher's Dam or its appurtenances into the James River.

(Code 1993, § 8-300; Code 2004, § 26-614; Code 2015, § 8-520)

Sec. 8-521. Fishing.

It shall be unlawful for any person to fish in the fish passage or from the shore within 100 yards upstream of the fish passage and 100 feet downstream of the fish passage, from the fish passage, dam and appurtenances, or any other access location.

(Code 1993, § 8-301; Code 2004, § 26-615; Code 2015, § 8-521)

Sec. 8-522. Posting of signs or advertising.

It shall be unlawful for any person to paint, mark or write on or post or otherwise affix to any fixture thereon any sign or other form of commercial, noncommercial, or political advertising, promotion, solicitation, communication, or display within the Bosher's Dam Area. It shall furthermore be unlawful for any person to cause or with knowledge permit such actions to be taken on such person's behalf.

(Code 1993, § 8-302; Code 2004, § 26-616; Code 2015, § 8-522)

Sec. 8-523. Throwing trash, litter or debris into waterways or open areas.

It shall be unlawful for any person to throw, sweep or otherwise deposit trash, litter or debris of any kind into the James River, the fish passage or open areas within the Bosher's Dam Area.

(Code 1993, § 8-303; Code 2004, § 26-617; Code 2015, § 8-523)

Cross reference—Solid waste, Ch. 23.

Sec. 8-524. Sales of food, beverages or merchandise.

It shall be unlawful for any person to sell or offer for sale any food, beverage or merchandise within the Bosher's Dam Area except with the express written permission of the City.

(Code 1993, § 8-304; Code 2004, § 26-618; Code 2015, § 8-524)

Sec. 8-525. Unauthorized structures or equipment.

It shall be unlawful for any person to erect a booth, stage, platform or any other structure or to place a table or other equipment within the Bosher's Dam Area for any purpose, except with the express written permission of the City.

(Code 1993, § 8-305; Code 2004, § 26-619; Code 2015, § 8-525)

Secs. 8-526—8-543. Reserved.

ARTICLE XII. MAINTENANCE AND REMOVAL OF TREES ON CITY-OWNED PROPERTY

Sec. 8-544. Urban Forestry Commission.

(a) *Established.* There is hereby created and established an Urban Forestry Commission for the purpose of improving the City's urban forestry resources through policy development, advice, education and fundraising.

(b) *Composition; terms of office.* The Commission shall consist of two non-voting members and nine voting members. The two non-voting members shall be the Director of Public Works and the Director of Community Development, or their designees. Of the nine voting members, three members shall be appointed by the Mayor and six members shall be appointed by the City Council. The members of the Commission shall represent a range of expertise necessary to fulfill the purpose and duties of the Commission. One member shall be a certified arborist, and one member shall be a registered certified landscape architect. Except for the certified arborist, all voting

members shall be residents of the City. No voting member shall be an officer or employee of the City, and no member shall hold any contract with the City, or subcontract thereof, to provide goods or services relating to City-owned trees. The members of the Commission shall serve for terms of three years, except for the initial nine voting members, of whom three shall be appointed to one-year terms, three shall be appointed to two-year terms, and three shall be appointed to three-year terms, to facilitate the staggering of member terms. However, upon the expiration of a term of office, the member holding that office may continue to serve until a successor is appointed and qualified. Any vacancy shall be filled for the unexpired term in the same manner as provided in this subsection. All other aspects of the Commission and its membership not addressed in this article shall be governed by Chapter 2, Article V, Division 1.

(c) *Responsibilities and duties.* The Commission shall fulfill the following responsibilities and duties:

(1) Advise the Director of Public Works regarding rules, regulations and policies promulgated under the City's Municipal Tree Policy and any revisions thereof.

(2) Recommend to the Council any legislation, plans, policies and programs complementary to the intent and purpose of the City's Municipal Tree Policy.

(3) Facilitate the development and adoption of a tree maintenance and management plan for City-owned trees.

(4) Assist with public relations and education programs to increase public understanding of urban forestry issues, including programs developed by the Department of Public Works, the Tree Stewards, the Friends of Urban Forestry and civic associations.

(5) Work with interested private organizations to raise money for projects involving City-owned trees and programs developed by the Department of Public Works.

(6) Prepare and submit an annual report to the Council and make presentations on an annual basis and as requested by the Council.

(7) Ensure the continuation of the Commission's purpose by annually providing a list of qualified candidates for expiring terms, if any, for consideration by the Mayor and the Council by May 30 of each year.

(8) Develop and assist with the adoption of a more comprehensive Municipal Tree Policy and present progress reports on its efforts in this regard to the Council's Land Use, Housing and Transportation Standing Committee upon the Committee's request.

(d) *Rules of procedure.* The Commission may adopt rules of procedure or bylaws not inconsistent with this division to govern the conduct of its meetings and operations. The Commission may elect a Chairperson and such other officers in accordance with the Commission's rules of procedure or bylaws.

(e) *Committees of the Commission*. Only members of the Commission shall be permitted to serve as members of any Committee of the Commission.

(f) *Meetings.* The Urban Forestry Commission shall hold regular monthly meetings and other meetings as needed.

(g) *Administrative support.* The Department of Community Development shall provide staff support and an employee to serve as Secretary to the Commission.

(Code 2004, § 26-650; Code 2015, § 8-544; Ord. No. 2009-174-184, § 1, 10-26-2009; Ord. No. 2010-63-70, § 1, 4-26-2010; Ord. No. 2011-102-113, § 1, 5-23-2011)

Cross reference—Boards, commissions, committees and other agencies, § 2-767 et seq.

Secs. 8-545—8-554. Reserved.

ARTICLE XIII. MAIN STREET STATION

Sec. 8-555. Fees for temporary use of Main Street Station.

This section applies to that portion of City-owned real estate located in the block bounded generally by East Main Street to the south, North 15th Street and Interstate 95 to the west, East Broad Street to the north, and Ambler

Street and Crane Street to the east. The Chief Administrative Officer, or the designee thereof, is authorized to license Main Street Station or any portion thereof for temporary use by the public in the manner provided and to the extent permitted by Section 8-2 only for the following fees:

Description				*Fee*
Fees for temporary use of Main Street Station:				
(1)	Head house:			
	a.	Sunday through Thursday:		
		1.	All day package	$3,900.00
	b.	Friday through Saturday:		
		1.	All day package	$7,000.00
(2)	Train shed (first floor only):			
	a.	Sunday through Thursday:		
		1.	All day package	$2,800.00
	b.	Friday through Saturday:		
		1.	All day package	$3,500.00
(3)	Train shed (second floor only):			
	a.	Sunday through Thursday:		
		1.	All day package	$8,900.00
	b.	Friday through Saturday:		
		1.	All day package	$14,800.00
(4)	Commercial kitchen:			
	a.	Ice maker rental		$500.00
	b.	Plate warmer, for each rental		$250.00
	c.	Stand-alone rental		$2,500.00
	d.	Add-on rental to event		$1,000.00
(5)	North Plaza:			
	a.	Add-on rental to event:		
		1.	Sunday through Thursday	$500.00
		2.	Friday through Saturday	$1,000.00
	b.	Stand-alone rental:		
		1.	Sunday through Thursday	$1,000.00
		2.	Friday through Saturday	$1,500.00
(6)	The Square:			
	a.	Sunday through Thursday		$750.00
	b.	Friday through Saturday		$1,000.00
(7)	The Gallery at Main Street Station, per month			$500.00

(8)	Multi-space pricing:		
	a.	If a licensee rents the train shed (second floor only), pricing for the head house for the same rental period will be reduced to 50 percent	
(9)	Train shed (second floor only) set-up pricing:		
	a.	Licensee may rent space for set-up days at a 50 percent rate	

(Code 2015, § 8-545; Ord. No. 2019-154, §§ 1, 2, 6-24-2019; Ord. No. 2019-251, § 1, 9-23-2019; Ord. No. 2020-008, § 1, 1-27-2020; Ord. No. 2020-192, § 1(8-545), 9-28-2020; Ord. No. 2020-202, § 1(8-545), 9-28-2020)

Chapter 9

ELECTIONS*

***Charter reference**—Elections, Ch. 3.

Cross reference—Administration, Ch. 2; City Council, § 2-29 et seq.

State law reference—Elections generally, Code of Virginia, § 24.2-100 et seq.

ARTICLE I. IN GENERAL

Sec. 9-1. List of registered voters.

(a) *Manner of obtaining.* Lists of registered voters shall be obtained from the central registration roster of voters established and maintained by the State Board of Elections in the Office of the Secretary of the State Board of Elections as authorized in Code of Virginia, § 24.2-405.

(b) *Copy in registrar's office; availability for public inspection.* The general registrar shall keep at least one copy of the list required by Code of Virginia, § 24.2-444, and such copy shall be available for public inspection in the general registrar's office at all times during the hours the office is open to the public. In addition, such copy shall be available for inspection upon appointment made with the general registrar, at all reasonable times requested. Such copy shall likewise be available on additional days and at particular times set by the Secretary of the State Board of Elections.

(c) *Reproduction and sale.* It shall be unlawful for any person to reproduce any copy of such list or any part thereof and sell or offer such reproduction for sale.

(Code 1993, § 9-1; Code 2004, § 30-1; Code 2015, § 9-1)

Sec. 9-2. Central absentee voter election district.

There is hereby established for the City a central absentee voter election district, for use in all elections. The polling place of the central absentee voter election district shall be on the second floor of the Office of the General Registrar located at 2134 West Laburnum Avenue, Richmond, Virginia. The central absentee voter election district shall conform in all respects with Code of Virginia, § 24.2-712.

(Code 1993, § 9-2; Code 2004, § 30-2; Code 2015, § 9-2; Ord. No. 2020-157, § 1, 8-10-2020)

Sec. 9-3. Election of Council at November general election.

Pursuant to Code of Virginia, § 24.2-222.1 and notwithstanding Code of Virginia, § 24.2-222 and Section 3.01 of the Charter, on the first Tuesday in November 2002 and on the Tuesday after the first Monday in November in every second year thereafter, there shall be held a general City election at which shall be elected by the qualified voters of the City one member of the Council from each of the nine election districts in the City. The voters residing in each such district shall elect one member for the district for a term of two years from January 1 following the member's election.

(Code 1993, § 9-3; Code 2004, § 30-3; Code 2015, § 9-3)

Secs. 9-4—9-24. Reserved.

ARTICLE II. ELECTION DISTRICTS*

***State law reference—**Election districts, Code of Virginia, § 24.2-304.1 et seq.

Sec. 9-25. Established.

The City is hereby divided into nine election districts bounded as outlined on the map attached to Ordinance No. 2011-185-179, adopted November 28, 2011, and described in the sections of this article.

(Code 1993, § 9-26; Code 2004, § 30-36; Code 2015, § 9-25; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-26. District 1.

Election District 1 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Westwood Avenue; thence in a southward direction along Westwood Avenue to its intersection with the eastbound side of West Broad Street; thence in an eastward direction along the eastbound side of West Broad Street to its intersection with the centerline of Cleveland Street; thence in a southward direction along the centerline of Cleveland Street to its intersection with the westbound side of Monument Avenue; thence in an eastward direction along the westbound side of Monument Avenue to its intersection with the southbound side of North Boulevard; thence in a southward direction along the southbound side of North Boulevard to its intersection with the centerline of Ellwood Avenue; thence in a westward direction along the centerline of Ellwood Avenue and Ellwood Avenue extended to its intersection with the centerline of the northbound lane of I-195; thence in a southward direction along the centerline of the northbound lane of I-195 to its intersection with the centerline of West Cary Street; thence in a westward direction along the centerline of West Cary Street to its intersection with the centerline of the CSX Railroad; thence along the centerline of the CSX Railroad and the Powhite Parkway in a southward direction to the intersection of the Powhite Parkway with the centerline of the main channel of the James River; thence in a westward direction along the centerline of the main channel and south channel of the James River to its intersection with the 1970 corporation line; thence in a northward and eastward direction along the 1970 corporation line to its intersection with Westwood Avenue, the point of beginning.

(Code 1993, § 9-27; Code 2004, § 30-37; Code 2015, § 9-26; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-27. District 2.

Election District 2 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the eastbound side of West Laburnum Avenue; thence in an eastward direction along the eastbound side of West Laburnum Avenue to its intersection with the southbound side of Gloucester Road; thence in a southward direction along the southbound side of Gloucester Road to its intersection with the centerline of Westwood Avenue; thence in an eastward direction along the centerline of Westwood Avenue to its intersection with the southbound side of Brook Road; thence in a southward direction along the southbound side of Brook Road to its intersection with the centerline of Sherwood Avenue; thence in a westward direction along the centerline of Sherwood Avenue to its intersection with the southbound side of I-95; thence in a southward direction along the southbound side of I-95 to its intersection with the centerline of Overbrook Road; thence in a westward direction along the centerline of Overbrook Road to its intersection with the southbound side of Hermitage Road; thence in a southward direction along the southbound side of Hermitage Road to its intersection with the southbound side of North Meadow Street; thence in a southward direction along the southbound side of North Meadow Street to its intersection with the eastbound side of West Broad Street; thence in an eastward direction along the eastbound side of West Broad Street to its intersection with the centerline of Lodge Street; thence in a northward direction along the centerline of Lodge Street to its intersection with the westbound side of West Broad Street; thence in an eastward direction along the westbound side of West Broad Street to its intersection with the centerline of North Lombardy Street; thence in a northward direction along the centerline of North Lombardy Street to its intersection with the eastbound side of I-64; thence in an easterly direction along the eastbound side of I-64 to North 1st Street; thence in a southward direction along the centerline of North 1st Street to its intersection with the centerline of East Duval Street; thence in an eastward direction along the centerline of East Duval Street to its intersection with the centerline of North 2nd Street; thence in a southward direction along the centerline of North 2nd Street to its intersection with the eastbound side of East Broad Street; thence in a westward direction along the eastbound side of East Broad Street to its intersection with the centerline of North Adams Street; thence in a southward direction along the centerline of North Adams Street to the point at which it becomes South Adams Street; thence in a southward direction along the centerline of South Adams Street to its intersection with the centerline of West Canal Street; thence in a westward direction along the centerline of West Canal Street to its intersection with the northbound side of South Belvidere Street; thence in a northward direction along the northbound side of South Belvidere Street to its intersection with the centerline of West Main Street; thence in a westward direction along the centerline of West Main Street to its intersection with the centerline of North Laurel Street; thence in a northward direction along the centerline of North Laurel Street to its intersection with the centerline of South Cathedral Place; thence in a westward

direction along the centerline of South Cathedral Place to the point at which it becomes Floyd Avenue; thence in a westward direction along the centerline of Floyd Avenue to its intersection with the centerline of North Shields Avenue; thence in a southward direction along the centerline of North Shields Avenue to its intersection with the centerline of West Main Street; thence in a westward direction along the centerline of West Main Street to its intersection with the southbound side of North Boulevard; thence in a northward direction along the southbound side of North Boulevard to its intersection with the westbound side of Monument Avenue; thence in a westward direction along the westbound side of Monument Avenue to its intersection with the centerline of Cleveland Street; thence in a northward direction along the centerline of Cleveland Street to its intersection with the eastbound side of West Broad Street; thence in a westward direction along the eastbound side of West Broad Street to its intersection with the centerline of Westwood Avenue; thence in a northward direction along the centerline of Westwood Avenue to its intersection with the 1970 corporation line; thence in a northward direction along the 1970 corporation line to its intersection with the centerline of Westwood Avenue; thence in a northward direction along the centerline of Westwood Avenue to its intersection with the 1970 corporation line; thence in a southeastward, then northeastward, then northwestward direction along the 1970 corporation line to its intersection with the eastbound side of West Laburnum Avenue, the point of beginning.

(Code 1993, § 9-28; Code 2004, § 30-38; Code 2015, § 9-27; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-28. District 3.

Election District 3 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the centerline of Meadowbridge Road; thence in a southward direction along the centerline of Meadowbridge Road to its intersection with the centerline of Bancroft Avenue; thence in a westward direction along the centerline of Bancroft Avenue to its intersection with the northbound side of Richmond-Henrico Turnpike; thence in a southward direction along the northbound side of Richmond-Henrico Turnpike to its intersection with the centerline of the Ravine; thence in a westward direction along the centerline of the Ravine to its intersection with Cannon's Branch; thence in a southward direction along Cannon's Branch to its intersection with the centerline of Lancaster Road and Lancaster Road extended; thence in a westward direction along the centerline of Lancaster Road and Lancaster Road extended to its intersection with the centerline of Lamb Avenue; thence in a northward direction along the centerline of Lamb Avenue to its intersection with the centerline of East Norwood Avenue; thence in a northeastward direction along the centerline of East Norwood Avenue to its intersection with the census block boundary; thence in a northward direction along the census block boundary to its intersection with the centerline of East Hooper Street and East Hooper Street extended; thence in a westward direction along the centerline of East Hooper Street and East Hooper Street extended to its intersection with the centerline of Fendall Avenue; thence in a southward direction along the centerline of Fendall Avenue to its intersection with the centerline of Overbrook Road; thence in an eastward direction along the centerline of Overbrook Road to its intersection with the centerline of Miller Avenue; thence in a southward direction along the centerline of Miller Avenue to its intersection with the centerline of Yancey Street; thence in an eastward direction along the centerline of Yancey Street to its intersection with the centerline of Rose Avenue; thence in a southward direction along the centerline of Rose Avenue to its intersection with the centerline of Fells Street; thence in an eastward direction along the centerline of Fells Street to its intersection with the centerline of St. James Street; thence in a southward direction along the centerline of St. James Street to its intersection with the centerline of the CSX Railroad; thence in an eastward direction along the centerline of the CSX Railroad to its intersection with the centerline of Valley Road; thence in a southward direction along the centerline of Valley Road to its intersection with the centerline of North 2nd Street; thence in a southward direction along the centerline of North 2nd Street to its intersection with the westbound side of I-64; thence in a westward direction along the westbound side of I-64 to its intersection with the centerline of North 1st Street; thence in a southward direction along the centerline of North 1st Street to its intersection with the eastbound side of I-64; thence in a westward direction along the eastbound side of I-64 to its intersection with the centerline of North Lombardy Street; thence in a southward direction along the centerline of North Lombardy Street to its intersection with the westbound side of West Broad Street; thence in a westward direction along the westbound side of West Broad Street to its intersection with Lodge Street; thence in a southward direction along Lodge Street to the eastbound side of West Broad Street; thence in a westward direction along the

eastbound side of West Broad Street to its intersection with the southbound side of North Meadow Street; thence in a northbound direction along the southbound side of North Meadow Street to the southbound side of Hermitage Road; thence in a northward direction along the southbound side of Hermitage Road to its intersection with the centerline of Overbrook Road; thence in an eastward direction along the centerline of Overbrook Road to its intersection with the southbound side of I-64; thence in a northward direction along the southbound side of I-64 to its intersection with the centerline of Sherwood Avenue; thence in an eastward direction along the centerline of Sherwood Avenue to its intersection with the southbound side of Brook Road; thence in a northward direction along the southbound side of Brook Road to its intersection with the centerline of Westwood Avenue; thence in a westward direction along the centerline of Westwood Avenue to its intersection with the southbound side of Gloucester Road; thence in a northward direction along the southbound side of Gloucester Road to its intersection with the westbound side of West Laburnum Avenue; thence in a westward direction along the westbound side of West Laburnum Avenue to its intersection with the 1970 corporation line; thence in a northward, then eastward direction along the 1970 corporation line to its intersection with Meadowbridge Road, the point of beginning.

(Code 1993, § 9-29; Code 2004, § 30-39; Code 2015, § 9-28; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-29. District 4.

Election District 4 shall be described as follows:

Beginning at the intersection of the James River and the 1970 corporation line; thence in a generally southeastward direction along the centerline of the James River to its intersection with the centerline of Reedy Creek; thence in a southward direction along the centerline of Reedy Creek to its intersection with the centerline of Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of West Roanoke Street; thence in a southward direction along the centerline of West Roanoke Street to its intersection with the centerline of Dunston Avenue; thence in a westward direction along the centerline of Dunston Avenue to its intersection with the centerline of Reedy Creek; thence in a westward direction along Reedy Creek to its intersection with West 44th Street; thence in a northward direction along the centerline of West 44th Street to its intersection with Reedy Avenue; thence in a westward direction along Reedy Avenue to its intersection with the centerline of West 45th Street and West 45th Street extended; thence in a southward direction along the centerline of West 45th Street and West 45th Street extended to its intersection with the centerline of Bassett Avenue; thence in a westward direction along the centerline of Bassett Avenue to its intersection with the centerline of Boroughbridge Road; thence in a northward direction along the centerline of Boroughbridge Road to its intersection with the centerline of Reedy Avenue; thence in a westward direction along the centerline of Reedy Avenue to its intersection with the centerline of Byswick Lane; thence in a northward direction along the centerline of Byswick Lane to its intersection with the centerline of Jahnke Road; thence in a westward direction along the centerline of Jahnke Road to its intersection with the centerline of Spruance Road; thence in a southwestward direction along the centerline of Spruance Road to its intersection with the centerline of Bradley Lane; thence in a southward direction along the centerline of Bradley Lane to its intersection with the centerline of Wainwright Drive; thence in a northwestward direction along the centerline of Wainwright Drive to its intersection with the centerline of Blandy Avenue; thence in a northward direction along the centerline of Blandy Avenue to its intersection with the centerline of Glenway Drive; thence in a generally southwestward direction along the centerline of Glenway Drive to its intersection with the northbound side of German School Road; thence in a northward direction along the northbound side of German School Road to its intersection with the centerline of Primrose Place service access road; thence in a southwestward direction along the centerline of Primrose Place service access road to its intersection with the centerline of Primrose Place; thence in a southwestward direction along the centerline of Primrose Place to its intersection with the centerline of St. John's Wood Drive; thence in a generally southwestward direction along the centerline of St. John's Wood Drive to its intersection with the centerline of St. Ann's Drive; thence in a generally northwestward direction along the centerline of St. Ann's Drive to its intersection with the centerline of Lisson Crescent; thence in a westerly, then northerly direction along the centerline of Lisson Crescent to its intersection with the centerline of St. Ann's Drive; thence in a northerly, then easterly direction along the centerline of St. Ann's Drive to its intersection with the southbound side of St. John's Wood Drive; thence in a northerly direction along the southbound side of St. John's Wood Drive to its intersection with the eastbound side of Jahnke Road; thence in a westerly direction

along the eastbound side of Jahnke Road to its intersection with the centerline of 1970 corporation line; thence in a generally northwestward direction along the 1970 corporation line to the James River, the point of beginning.

(Code 1993, § 9-30; Code 2004, § 30-40; Code 2015, § 9-29; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-30. District 5.

Election District 5 shall be described as follows:

Beginning at the intersection of I-195 and Ellwood Avenue extended; thence in an eastward direction along the centerline of Ellwood Avenue extended and Ellwood Avenue to its intersection with the centerline of West Main Street; thence in an eastward direction along the centerline of West Main Street to its intersection with the centerline of North Shields Avenue; thence in a northward direction along the centerline of North Shields Avenue to its intersection with the centerline of Floyd Avenue; thence in an eastward direction along the centerline of Floyd Avenue to the point at which it becomes South Cathedral Place; thence in an eastward direction along the centerline of South Cathedral Place to its intersection with the centerline of North Laurel Street; thence in a southward direction along the centerline of North Laurel Street to its intersection with the centerline of West Main Street; thence in an eastward direction along the centerline of West Main Street to its intersection with the northbound side of South Belvidere Street; thence in a southward direction along the northbound side of South Belvidere Street to its intersection with the westbound side of the Downtown Expressway; thence in an eastward direction along the westbound side of the Downtown Expressway to its intersection with the centerline of South 2nd Street; thence in a southward direction along the centerline of South 2nd Street to its intersection with the northbound side of South Belvidere Street; then in a southward direction along the northbound side of South Belvidere Street to its intersection with the northbound side of Cowardin Avenue; thence in a southward direction along the northbound side of Cowardin Avenue to its intersection with the centerline of Hull Street; thence in a southwestward direction along the centerline of Hull Street to its intersection with the centerline of the CSX Railroad spur; thence in a northwestward direction along the centerline of the CSX Railroad spur to its intersection with the southbound side of Westover Hills Boulevard; thence in a northward direction along the southbound side of Westover Hills Boulevard to its intersection with the centerline of Bassett Avenue; thence in an eastward direction to the centerline of Bassett Avenue to its intersection with the centerline of West 45th Street extended; thence in a northward direction along the centerline of West 45th Street extended and West 45th Street to its intersection with the centerline of Reedy Avenue; thence in an eastward direction along the centerline of Reedy Avenue to its intersection with the centerline of West 44th Street; thence in a southward direction along the centerline of West 44th Street to its intersection with the centerline of Reedy Creek; thence in a generally northeastward direction along Reedy Creek to its intersection with the centerline of Dunston Avenue; thence in an eastward direction along the centerline of Dunston Avenue to its intersection with West Roanoke Street; thence in a northward direction along the centerline of West Roanoke Street to the centerline of Forest Hill Avenue; thence in an eastward direction along the centerline of Forest Hill Avenue to its intersection with Reedy Creek; thence in a northward direction along Reedy Creek to the James River; thence in a westward direction along the James River to its intersection with the centerline of I-195 and Powhite Parkway; thence in a northward direction along the centerline of Powhite Parkway and I-195 to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline of West Cary Street; thence in an eastward direction along the centerline of West Cary Street to its intersection with the centerline of the northbound lane of the Powhite Parkway; thence in a northward direction along the northbound lane of the Powhite Parkway to its intersection with the centerline of Ellwood Avenue extended, the point of beginning.

(Code 1993, § 9-31; Code 2004, § 30-41; Code 2015, § 9-30; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-31. District 6.

Election District 6 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Meadowbridge Road; thence in an eastward, then southward direction along the 1970 corporation line to its intersection with the centerline of Carroll Street; thence in a westward direction along the centerline of Carroll Street to its intersection with the centerline of

Mechanicsville Turnpike; thence in a southward direction along the centerline of Mechanicsville Turnpike to its intersection with the centerline of Mosby Street; thence in a southward direction along the centerline of Mosby Street to its intersection with the centerline of the eastbound side of East Leigh Street; thence in a westward direction along the eastbound side of East Leigh Street to its intersection with the southbound side of I-95; thence in a southward direction along the southbound side of I-95 to its intersection with the eastbound side of East Broad Street; thence in a westward direction along the eastbound side of East Broad Street to its intersection with the southbound side of North 14th Street; thence in a southward direction along the southbound side of North 14th Street to its intersection with the centerline of Bank Street; thence in an eastward direction along the centerline of Bank Street to its intersection with the northbound side of North 14th Street; thence in a southward direction along the northbound side of North 14th Street to its intersection with South 14th Street; thence in a southward direction along the centerline of South 14th Street to its intersection with the shoreline of the James River; thence in an eastward direction along the shoreline of the James River to its intersection with the CSX Railroad; thence in a southward direction along the CSX Railroad to its intersection with the north channel of the James River; thence in an eastward direction along the north channel of the James River to its intersection with the southbound side of I-95; thence in a southward direction along the southbound side of I-95 to its intersection with the center of the James River; thence in a southward direction along the center of the James River to its intersection with South Ash Street extended; thence in an eastward direction along the centerline of South Ash Street extended to its intersection with the eastern shore of the James River; thence in a southward direction along the eastern shore of the James River to its intersection with the entrance to Goodes Creek extended; thence in a westward direction along the entrance to Goodes Creek extended to its intersection with the point at which Goodes Creek enters the James River; thence in a westward direction along Goodes Creek to its intersection with the centerline of Commerce Road; thence in a northward direction along the centerline of Commerce Road to its intersection with the eastbound side of Bellemeade Road; thence in a southwestward direction along the eastbound side of Bellemeade Road to its intersection with the centerline of Lynhaven Avenue; thence in a northward direction along the centerline of Lynhaven Avenue to its intersection with the centerline of Warwick Avenue; thence in an eastward direction along the centerline of Warwick Avenue to its intersection with the centerline of Krouse Street; thence in a northward direction along the centerline of Krouse Street to its intersection with the centerline of Royall Avenue; thence in a westward direction along the centerline of Royall Avenue to its intersection with the northbound side of Jefferson Davis Highway; thence in a northward direction along the northbound side of Jefferson Davis Highway to its intersection with Harwood Street; thence in an eastward direction along the centerline of Harwood Street to its intersection with the centerline of Lone Street; thence in a northward direction along the centerline of Lone Street to its intersection with the centerline of Bruce Street; thence in a westward direction along the centerline of Bruce Street to its intersection with the centerline of East 18th Street; thence in a northwestward direction along the centerline of East 18th Street to its intersection with the centerline of Ingram Avenue; thence in a northeast direction along the centerline of Ingram Avenue to its intersection with East 15th Street; thence in a northward direction along East 15th Street to its intersection with the centerline of Dinwiddie Avenue; thence in a northeastward direction along the centerline of Dinwiddie Avenue to its intersection with the southbound side of Commerce Road; thence in a northwestward direction along the southbound side of Commerce Road to its intersection with the centerline of East 9th Street; thence in a northward direction along the centerline of East 9th Street to its intersection with Maury Street; thence in a southwestward direction along Maury Street to its intersection with the centerline of East 10th Street; thence in a northwestward direction along the centerline of East 10th Street to its intersection with the centerline of Stockton Street; thence in a southwestward direction along the centerline of Stockton Street to its intersection with the centerline of East 15th Street; thence in a northward direction along the centerline of East 15th Street to its intersection with the centerline of Hull Street; thence in a westward direction along the centerline of Hull Street to its intersection with the northbound side of Cowardin Avenue; thence in a northward direction along the northbound side of Cowardin Avenue to its intersection with the northbound side of South Belvidere Street; thence in a northward direction along the northbound side of South Belvidere Street to its intersection with the centerline of South 2nd Street; thence in a northward direction along the centerline of South 2nd Street to its intersection with the westbound side of the Downtown Expressway; thence in a westward direction along the westbound side of the Downtown Expressway to its intersection with the northbound side of South Belvidere Street; thence in a northward direction along the northbound side of South

Belvidere Street to its intersection with the centerline of West Canal Street; thence in an eastward direction along the centerline of West Canal Street to its intersection with the centerline of South Adams Street; thence in a northward direction along the centerline of South Adams Street to the point at which it becomes North Adams Street; thence in a northward direction along the centerline of North Adams Street to its intersection with the eastbound side of West Broad Street; thence in an eastward direction along the eastbound side of West Broad Street to its intersection with the centerline of North 2nd Street; thence in a northward direction along the centerline of North 2nd Street to its intersection with the centerline of East Duval Street; thence westward along the centerline of East Duval Street to its intersection with the centerline of North 1st Street; thence in a northward direction along the centerline of North 1st Street to its intersection with the centerline of the westbound lane of I-64; thence in an eastward direction along the centerline of the westbound lane of I-64 to its intersection with North 2nd Street; thence in a northward direction along the centerline of North 2nd Street to its intersection with the centerline of Valley Road; thence in an eastward direction along the centerline of Valley Road to its intersection with the CSX Railroad; thence in a westward direction along the centerline of the CSX Railroad to its intersection with the centerline of St. James Street; thence in a northward direction along the centerline of James Street to its intersection with the centerline of Fells Street; thence in a westward direction along the centerline of Fells Street to its intersection with the centerline of Rose Avenue; thence in a northward direction along the centerline of Rose Avenue to its intersection with the centerline of Yancy Street; thence in a westward direction along the centerline of Yancy Street to its intersection with the centerline of Miller Avenue; thence in a northward direction along the centerline of Miller Avenue to its intersection with the centerline of Overbrook Road; thence in a westward direction along the centerline of Overbrook Road to its intersection with the centerline of Fendall Avenue; thence in a northward direction along the centerline of Fendall Avenue to its intersection with the centerline of West Hooper Street; thence in an eastward direction along the centerline of West Hooper Street to the point at which it becomes East Hooper Street; thence in an eastward direction along East Hooper Street to its intersection with the census block boundary; thence in a southward direction along the census block boundary to its intersection with the centerline of East Norwood Avenue; thence in a westward direction along the centerline of East Norwood Avenue to its intersection with the centerline of Lamb Avenue; thence in a southward direction along the centerline of Lamb Avenue to its intersection with East Lancaster Road; thence in an eastward direction along the centerline of East Lancaster Road and East Lancaster Road extended to its intersection with the centerline of the Ravine; thence in an eastward direction along the centerline of the Ravine to its intersection with the northbound side of Richmond Henrico Turnpike; thence in a northward direction along the northbound side of Richmond Henrico Turnpike to its intersection with the centerline of Bancroft Avenue; thence in an eastward direction along the centerline of Bancroft Avenue to its intersection with the centerline of Meadowbridge Road; thence in a northward direction along the centerline of Meadowbridge Road to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-32; Code 2004, § 30-42; Code 2015, § 9-31; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-32. District 7.

Election District 7 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Carroll Street; thence in a generally southeastward direction along the 1970 corporation line to its intersection with the centerline of the James River; thence in a northwestward direction along the centerline of the James River to its intersection with the southbound side of I-95; thence in a northward direction along the southbound side of I-95 to its intersection with the centerline of the James River; thence in a westward direction along the centerline of the James River to its intersection with the CSX Railroad; thence in a northward direction along the CSX Railroad to its intersection with the northern shore of the James River; thence in a westward direction along the northern shore of the James River to its intersection with the northbound side of South 14th Street; thence in a northward direction along the northbound side of South 14th Street to its intersection with the northbound side of North 14th Street; thence in a northward direction along the northbound side of North 14th Street to its intersection with Bank Street; thence in a westward direction along the centerline of Bank Street to its intersection with the southbound side of North 14th Street; thence in a northward direction along the centerline of North 14th Street to its intersection with the eastbound side of East Broad Street; thence in an eastward direction along the eastbound side of East Broad Street to its intersection with the southbound side of I-95; thence in a

northward direction along the southbound side of I-95 to its intersection with the eastbound side of East Leigh Street; thence in an eastward direction along the eastbound side of East Leigh Street to its intersection with the centerline of Mosby Street; thence in a northward direction along the centerline of Mosby Street to its intersection with the centerline of Mechanicsville Turnpike; thence in a northward direction along the centerline of Mechanicsville Turnpike to its intersection with the centerline of Carroll Street; thence in an eastward direction along the centerline of Carroll Street to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-33; Code 2004, § 30-43; Code 2015, § 9-32; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-33. District 8.

Election District 8 shall be described as follows:

Beginning at the intersection of Stockton Street and East 10th Street; thence in a southeastward direction along the centerline of East 10th Street to its intersection with Maury Street; thence in a northeastward direction along Maury Street to its intersection with the centerline of East 9th Street; thence in a southeastward direction along the centerline of East 9th Street to its intersection with the southbound side of Commerce Road; thence in an eastward direction along the southbound side of Commerce Road to the intersection with the centerline of Dinwiddie Avenue; thence in a southwestward direction along the centerline of Dinwiddie Avenue to its intersection with the centerline of East 15th Street; thence in a southeastward direction along the centerline of East 15th Street to its intersection with the centerline of Ingram Avenue; thence in a southwestward direction along the centerline of Ingram Avenue to its intersection with the centerline of East 18th Street; thence in a southeastward direction along the centerline of East 18th Street to its intersection with the centerline of Bruce Street; thence in an eastward direction along the centerline of Bruce Street to its intersection with the centerline of Lone Street; thence in a southward direction along the centerline of Lone Street to its intersection with the centerline of Harwood Street; thence in a westward direction along the centerline of Harwood Street to its intersection with the northbound side of Jefferson Davis Highway; thence in a northward direction along the northbound side of Jefferson Davis Highway to its intersection with the centerline of Royall Avenue; thence in an eastward direction along the centerline of Royall Avenue to its intersection with the centerline of Krouse Street; thence in a southward direction along the centerline of Krouse Street to its intersection with Warwick Avenue; thence in a westward direction along Warwick Avenue to its intersection with the centerline of Lynhaven Avenue; thence in a southward direction along the centerline of Lynhaven Avenue to its intersection with the eastbound side of Bellemeade Road; thence in an eastward direction along the eastbound side of Bellemeade Road to its intersection with the centerline of Commerce Road; thence in a southward direction along the centerline of Commerce Road to its intersection with Goodes Creek; thence in an eastward direction along Goodes Creek to its intersection with the 1970 corporation line; thence in a southward and then westward direction along the 1970 corporation line to its intersection with the westbound side of Walmsley Boulevard; thence in an eastward direction along the westbound side of Walmsley Boulevard to its intersection with the northbound side of Broad Rock Boulevard; thence in a northward direction along the northbound side of Broad Rock Boulevard to its intersection with the centerline of the western boundary of the census block which lies along the former roadbed of Warwick Road; thence in a northward direction along the western boundary of the census block which lies along the former roadbed of Warwick Road to its intersection with the southbound side of Warwick Road; thence in a northward direction along the southbound side of Warwick Road to its intersection with Allwood Avenue; thence in an eastward direction along the centerline of Allwood Avenue to its intersection with the centerline of Lovells Road; thence in a southward direction along the centerline of Lovells Road to its intersection with the centerline of Cullen Road; thence in a northeastward direction along the centerline of Cullen Road to its intersection with the centerline of Cooks Road; thence in a southeastward direction along the centerline of Cooks Road to its intersection with the southbound side of Broad Rock Boulevard; thence in a northward direction along the southbound side of Broad Rock Boulevard to its intersection with the CSX Railroad; thence in a northwestward direction along the centerline of the CSX Railroad to its intersection with the eastbound side of Hull Street Road; thence in a southwestward direction along the eastbound side of Hull Street Road to its intersection with the southbound side of Warwick Road; thence in a westward direction along the southbound side of Warwick Road to its intersection with the centerline of Warwick Village Drive; thence in a northward direction along the centerline of Warwick Village Drive to its intersection with the centerline of Biggs Road; thence in a westward direction along the centerline

of Biggs Road to its intersection with the centerline of Giant Drive; thence in a northward direction along the centerline of Giant Drive to its intersection with the westbound side of Midlothian Turnpike; thence in an eastward direction along the westbound side of Midlothian Turnpike to its intersection with the centerline of Covington Road; thence in a northward direction along the centerline of Covington Road to its intersection with the centerline of Reedy Creek; thence in a northeastward direction along the centerline of Reedy Creek to its intersection with the southbound side of Westover Hills Boulevard; thence in a southward direction along the southbound side of Westover Hills Boulevard to its intersection with the CSX Railroad spur; thence in a southeastward direction along the CSX Railroad spur to its intersection with CSX Railroad; thence in a southeastward direction along the CSX Railroad to its intersection with Hull Street; thence in a northeastward direction along the centerline of Hull Street to its intersection with the centerline of East 15th Street; thence in a southward direction along the centerline of East 15th Street to its intersection with the centerline of Stockton Street; thence in an eastward direction along the centerline of Stockton Street to its intersection with East 10th Street, the point of beginning.

(Code 1993, § 9-34; Code 2004, § 30-44; Code 2015, § 9-33; Ord. No. 2011-185-179, § 1, 11-28-2011)

Sec. 9-34. District 9.

Election District 9 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the eastbound side of Jahnke Road; thence east along the eastbound side of Jahnke Road to its intersection with the southbound side of St. John's Wood Drive; thence in a southeastward direction along the southbound side of St. John's Wood Drive to its intersection with the centerline of St. Ann's Drive; thence in a westward direction along the centerline of St. Ann's Drive to its intersection with the centerline of Lisson Crescent; thence in a southward direction along the centerline of Lisson Crescent to its intersection with St. Ann's Drive; thence in an easterly direction along St. Ann's Drive to its intersection with the centerline of St. John's Wood Drive; thence in a northeastward direction along the centerline of St. John's Wood Drive to its intersection with the centerline of Primrose Place; thence in an eastward direction along the centerline of Primrose Place to its intersection with the centerline of Primrose Place service access road; thence in a northward direction along the centerline of Primrose Place service access road to its intersection with the northbound side of German School Road; thence in a southeast direction along the northbound side of German School Road to its intersection with the centerline of Glenway Drive; thence in a northeast direction along the centerline of Glenway Drive to its intersection with the centerline of Blandy Avenue; thence in a southward direction along the centerline of Blandy Avenue to its intersection with the centerline of Wainwright Drive; thence in a southward direction along the centerline of Wainwright Drive to the centerline of Bradley Lane; thence in a northward direction along the centerline of Bradley Lane to its intersection with the centerline of Spruance Road; thence in a northeastward direction along Spruance Road to its intersection with the centerline of Jahnke Road; thence in an eastward direction along the centerline of Jahnke Road to its intersection with the centerline of Byswick Lane; thence in a southward direction along the centerline of Byswick Lane to its intersection with the centerline of Reedy Avenue; thence in an eastward direction along the centerline of Reedy Avenue to its intersection with the centerline of Boroughbridge Road; thence in a southward direction along the centerline of Boroughbridge Road to its intersection with the centerline of Bassett Avenue; thence in an eastward direction along the centerline of Bassett Avenue to its intersection with the southbound side of Westover Hills Boulevard; thence in a southward direction along the southbound side of Westover Hills Boulevard to its intersection with the centerline of Reedy Creek; thence in a southwestward direction along the centerline of Reedy Creek to its intersection with the centerline of Covington Road; thence in a southward direction along the centerline of Covington Road to its intersection with the westbound side of Midlothian Turnpike; thence in a westward direction along the westbound side of Midlothian Turnpike to its intersection with the centerline of Giant Drive; thence in a southward direction along the centerline of Giant Drive to its intersection with the centerline of Biggs Road; thence in an eastward direction along the centerline of Biggs Road to its intersection with the centerline of Warwick Village Drive; thence in a southward direction along the centerline of Warwick Village Drive to its intersection with the southbound side of Warwick Road; thence in a southeastward direction along the southbound side of Warwick Road to its intersection with the eastbound side of Hull Street Road; thence in a northeastward direction along the eastbound side of Hull Street Road to its intersection with the centerline of the CSX Railroad; thence in a southeastward direction along the centerline of the CSX Railroad to its intersection with the southbound side

of Broad Rock Boulevard; thence in a southwestward direction along the southbound side of Broad Rock Boulevard to its intersection with the centerline of Cooks Road; thence in a northwestward direction along the centerline of Cooks Road to its intersection with the centerline of Cullen Road; thence in a southwestward direction along the centerline of Cullen Road to its intersection with the centerline of Lovells Road; thence in a northward direction along the centerline of Lovells Road to its intersection with the centerline of Allwood Avenue; thence in a southwestward direction along the centerline of Allwood Avenue to its intersection with the southbound side of Warwick Road; thence in a southward direction along the southbound side of Warwick Road to its intersection with the western boundary of the census block which lies along the former roadbed of Warwick Road; thence in a southward direction along the western boundary of the census block which lies along the former roadbed of Warwick Road to its intersection with the northbound side of Broad Rock Boulevard; thence in a southward direction along the northbound side of Broad Rock Boulevard to its intersection with the westbound side of Walmsley Boulevard; thence in a westward direction along the westbound side of Walmsley Boulevard to its intersection with the 1970 corporation line; thence in a northwestward direction along the 1970 corporation line to its intersection with the eastbound side of Jahnke Road, the point of beginning.

(Code 1993, § 9-35; Code 2004, § 30-45; Code 2015, § 9-34; Ord. No. 2011-185-179, § 1, 11-28-2011)

Secs. 9-35—9-56. Reserved.

ARTICLE III. PRECINCTS*

***State law reference—**Duty of Council to establish precincts, Code of Virginia, § 24.2-305 et seq.

Sec. 9-57. Established.

The City is hereby divided into election precincts bounded, respectively, as set out in the sections of this article.

(Code 1993, § 9-36; Code 2004, § 30-76; Code 2015, § 9-57)

Sec. 9-58. Polling places.

Pursuant to Code of Virginia, §§ 24.2-310 and 24.2-310.1, the polling places for each of the precincts established in this article shall be as follows:

Precinct	*Polling Place*	*Location*
101	Jepson Alumni Center, University of Richmond	442 Westhampton Way
102	St. Giles Church	5200 Grove Avenue (enter from Tuckahoe Boulevard)
104	First Presbyterian Church	Locke Lane and Cary Street Road
105	Mary Munford School	211 Westmoreland
106	Grace Baptist Church	Dover Road, Windsor Farms
111	American Legion Department of Virginia	1708 Commonwealth Avenue
112	Thomas Jefferson High School	4100 W. Grace Street
113	Albert H. Hill School	3400 Patterson Avenue
114	Humphrey Calder Community Center	414 N. Thompson Street
115	Fire Engine House	311 Maple Avenue
203	Arthur Ashe Center	3017 N. Arthur Ashe Boulevard
204	First Baptist Church	N. Arthur Ashe Boulevard at Monument Avenue (enter from

		N. Mulberry parking lot)
206	VCU Institute for Contemporary Art	601 W. Broad Street
207	Virginia Museum of History and Culture	428 N. Arthur Ashe Boulevard
208	Tabernacle Baptist Church	1925 Grove Avenue
213	George Washington Carver School	1110 W. Leigh Street
214	University Student Commons, Cherry and Main Streets entrance	907 Floyd Avenue
215	Arthur Ashe Center	3017 N. Arthur Ashe Boulevard
301	South entrance, John Marshall High School	4225 Old Brook Road
302	Atlee Church	3121 Moss Side Avenue
303	Barack Obama Elementary School	3101 Fendall Avenue
304	Richmond Community High School	201 E. Brookland Park Boulevard
305	Albert V. Norrell School	2120 Fendall Avenue
306	Police Training Academy	1202 W. Graham Road
307	Ginter Park Presbyterian Church	3601 Seminary Avenue
308	Linwood Holton Elementary School	1600 W. Laburnum Avenue
309	Imperial Plaza	1717 Bellevue Avenue
310	Calhoun Center	436 Calhoun Street
402	Forest Hill Presbyterian Church	4401 Forest Hill Avenue
404	Jahnke Road Baptist Church	6023 Jahnke Road
409	J. B. Fisher Elementary School	3701 Garden Road
410	Thompson Middle School	7825 Forest Hill Avenue
412	Lucille M. Brown Middle School	6300 Jahnke Road
413	St. Luke Evangelical Lutheran Church	7757 Chippenham Parkway
414	Southampton Elementary School	3333 Cheverly Road
415	Christ the King Lutheran Church	9800 W. Huguenot Road
501	John B. Cary School	3021 Maplewood Avenue
503	Maymont School	1211 S. Allen Avenue
504	Randolph Community Center	1415 Grayland Avenue
505	Clark Springs Elementary School	1101 Dance Street
508	Woodland Heights Baptist Church	31st Street & Springhill Avenue
509	George Wythe High School	4314 Crutchfield Street
510	Swansboro School	3160 Midlothian Turnpike
602	Whitcomb Court Housing Development Recreation Room	2302 Carmine Street
603	Fire Engine House	2614 First Avenue
604	Fifth Street Baptist Church	2800 Third Avenue
606	Hotchkiss Community Center	701 E. Brookland Park

		Boulevard
607	Main Library	101 E. Franklin Street
609	Fire Engine House	Albany Avenue and Commerce Road
610	Bellemeade Community Center	1800 Lynhaven Avenue
701	Woodville School	2000 N. 28th Street
702	Sarah Garland Jones Center	2600 Nine Mile Road
703	Fourth Baptist Church	2800 P Street
705	31st Street Baptist Church	823 N. 31st Street
706	Recreation Center	5051 Northampton Street
707	City Hall East	25th and M Streets
708	Main Street Station	1500 E. Main Street
802	Blackwell Community Center	300 E. 15th Street
806	Hickory Hill Community Center	3000 E. Belt Boulevard
810	Celebration Church and Outreach Ministry	5501 Midlothian Turnpike
811	Hobson Masonic Lodge	801 Prince Hall Drive
812	Branch's Baptist Church	3400 Broad Rock Road
814	Boushall Middle School	3400 Hopkins Road
902	E.S.H. Greene School	1745 Catalina Drive
903	J.L. Francis Elementary School	5146 Snead Road
908	Miles Jones Elementary School	200 Beaufont Hills Drive
909	Elizabeth D. Redd School	5601 Jahnke Road
910	G.H. Reid School	1301 Whitehead Road
911	Community Building, Southside Regional Park	6255 Old Warwick Road
Satellite	City Hall	900 E. Broad Street
Satellite	Hickory Hill Community Center	3000 Belt Boulevard

(Code 1993, § 9-37; Code 2004, § 30-77; Code 2015, § 9-58; Ord. No. 2004-202-183, § 1, 7-12-2004; Ord. No. 2004-203-184, § 1, 7-28-2004; Ord. No. 2004-204-185, § 1, 7-12-2004; Ord. No. 2004-205-186, § 1, 7-12-2004; Ord. No. 2004-206-187, § 1, 7-12-2004; Ord. No. 2004-207-188, § 1, 7-12-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-200-170, § 1, 7-25-2005; Ord. No. 2005-293-2006-19, § 1, 1-23-2006; Ord. No. 2006-51-77, § 1, 3-27-2006; Ord. No. 2006-174-173, § 1, 6-26-2006; Ord. No. 2006-224-216, § 1, 7-24-2006; Ord. No. 2007-177-160, § 1, 6-25-2007; Ord. No. 2007-178-182, § 1, 7-23-2007; Ord. No. 2007-202-183, § 1, 7-23-2007; Ord. No. 2010-44-51, § 1, 3-8-2010; Ord. No. 2010-164-157, § 1, 7-26-2010; Ord. No. 2011-87-74, § 1, 5-9-2011; Ord. No. 2011-204-199, § 1, 12-12-2011; Ord. No. 2011-209-2012-2, § 1, 1-9-2012; Ord. No. 2013-124-127, § 1, 7-8-2013; Ord. No. 2015-180-185, § 1, 9-28-2015; Ord. No. 2015-223-217, § 1, 11-9-2015; Ord. No. 2015-271, § 1, 1-11-2016; Ord. No. 2016-123, § 1, 4-25-2016; Ord. No. 2017-144, § 1, 9-5-2017; Ord. No. 2017-145, § 1, 9-5-2017; Ord. No. 2018-112, § 1, 4-9-2018; Ord. No. 2018-116, § 1, 4-23-2018; Ord. No. 2018-256, § 1, 10-8-2018; Ord. No. 2019-009, § 1, 1-28-2019; Ord. No. 2019-010, § 1, 1-28-2019; Ord. No. 2019-166, § 1, 7-22-2019; Ord. No. 2019-167, § 1, 7-22-2019; Ord. No. 2020-125, §§ 1, 2, 6-9-2020; Mo. of 6-1-2020; Ord. No. 2020-158, § 1, 8-10-2020; Ord. No. 2020-159, § 1, 8-10-2020; Ord. No. 2020-160, § 1, 8-10-2020; Ord. No. 2020-161, § 1, 8-10-2020; Ord. No. 2020-162, § 1, 8-10-2020; Ord. No. 2020-163, § 1, 8-10-2020)

Sec. 9-59. Precinct 101.

Election Precinct 101 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Boatwright Drive; thence in a northwestward, then eastward direction along the 1970 corporation line to its intersection with the centerline of Three Chopt Road; thence in a southeastward direction along the centerline of Three Chopt Road to its intersection with the centerline of Towana Road; thence in a southeastward direction along the centerline of Towana Road to the point at which it becomes Three Chopt Road East Leg; thence in a southeast direction along the centerline of Three Chopt Road East Leg to its intersection with the centerline of Grove Avenue; thence in a westward direction along the centerline of Grove Avenue to its intersection with Three Chopt Road; thence in a southeastward direction along the centerline of Three Chopt Road to its intersection with the centerline of River Road; thence in a westward direction along the centerline of River Road to its intersection with the 1970 corporation line; thence in a generally northward direction along the 1970 corporation line to its intersection with the centerline of Boatwright Drive, the point of beginning.

(Code 1993, § 9-38; Code 2004, § 30-78; Code 2015, § 9-59; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2018-116, § 1, 4-23-2018)

Sec. 9-60. Precinct 102.

Election Precinct 102 shall be described as follows:

Beginning at the intersection of the centerline of the 1970 corporation line and the centerline of Maple Avenue; thence in a southward direction along the centerline of Maple Avenue to its intersection with the centerline of Guthrie Avenue; thence in an eastward direction along the centerline of Guthrie Avenue to its intersection with the centerline of Libbie Avenue; thence in a southward direction along the centerline of Libbie Avenue to its intersection with the centerline of Grove Avenue; thence in a westward direction along the centerline of Grove Avenue to its intersection with the centerline of Three Chopt Road; thence in a southward direction along the centerline of Three Chopt Road to its intersection with the centerline of Cary Street Road; thence in an eastward direction along the centerline of Cary Street Road to its intersection with the centerline of Tuckahoe Boulevard; thence in a northward direction along the centerline of Tuckahoe Boulevard to its intersection with the centerline of Bewdley Road; thence in a westward direction along the centerline of Bewdley Road to its intersection with the centerline of Matoaka Road; thence in a northward direction along the centerline of Matoaka Road to its intersection with the centerline of Patterson Avenue; thence in an eastward direction along the centerline of Patterson Avenue to its intersection with the centerline of Dunbar Street; thence in a northward direction along the centerline of Dunbar Street to its intersection with the centerline of the 1970 corporation line; thence in a westward direction along the centerline of the 1970 corporation line to its intersection with the centerline of Maple Avenue, the point of beginning.

(Code 1993, § 9-39; Code 2004, § 30-79; Code 2015, § 9-60; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2018-116, § 1, 4-23-2018)

Sec. 9-61. Precinct 104.

Election Precinct 104 shall be described as follows:

Beginning at the intersection of the centerlines of Dunbar Street and the 1970 corporation line; thence in an eastward direction along the 1970 corporation line to its intersection with the centerline of Willow Lawn Drive; thence in a southwestward direction along the centerline of Willow Lawn Drive to its intersection with the centerline of West Franklin Street; thence in a southeastward direction along the centerline of West Franklin Street to its intersection with the centerline of Greenway Lane; thence in a southward direction along the centerline of Greenway Lane to its intersection with the centerline of Park Avenue; thence in an eastward direction along the centerline of Park Avenue to its intersection with the centerline of Harlan Circle; thence in a southward direction along the centerline of Harlan Circle to its intersection with the centerline of Patterson Avenue; thence in an eastward direction along the centerline of Patterson Avenue to its intersection with the centerline of Westmoreland Street; thence in a southward direction along the centerline of Westmoreland Street to its intersection with the centerline of Cary Street Road; thence in a westward direction along the centerline of Cary Street Road to its intersection with the centerline of Tuckahoe Boulevard; thence in a northward direction along the centerline of Tuckahoe Boulevard to its intersection with the centerline of Bewdley Road; thence in a westward direction along the centerline of Bewdley Road to its intersection with the centerline of Matoaka Road; thence in a northward direction along the centerline of Matoaka Road to its

intersection with the centerline of Patterson Avenue; thence in an eastward direction along the centerline of Patterson Avenue to its intersection with the centerline of Dunbar Street; thence in a northward direction along the centerline of Dunbar Street to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-41; Code 2004, § 30-80; Code 2015, § 9-61)

Sec. 9-62. Precinct 105.

Election Precinct 105 shall be described as follows:

Beginning at the intersection of the centerline of Patterson Avenue with the centerline of Westmoreland Street; thence along the centerline of Patterson Avenue in an eastward direction to its intersection with the centerline of the CSX Railroad; thence along the centerline of the CSX Railroad in a southward direction to its intersection with the centerline of Cary Street Road; thence along the centerline of Cary Street Road in a westward direction to its intersection with the centerline of Westmoreland Street; thence along the centerline of Westmoreland Street in a northward direction to its intersection with the centerline of Patterson Avenue, the point of beginning.

(Code 1993, § 9-42; Code 2004, § 30-81; Code 2015, § 9-62)

Sec. 9-63. Precinct 106.

Election Precinct 106 shall be described as follows:

Beginning at the intersection of the centerlines of Cary Street Road with the centerline of the CSX Railroad; thence along the centerline of the CSX Railroad and the Powhite Parkway in a southward direction to the intersection of the Powhite Parkway with the centerline of the main channel of the James River; thence along the centerline of the main channel and south channel of the James River in a westward direction to its intersection with the 1970 corporation line; thence in a northward direction along the 1970 corporation line to the centerline of River Road; thence in an eastward direction along the centerline of River Road to its intersection with the centerline of Cary Street Road; thence along the centerline of Cary Street Road in an eastward direction to its intersection with the centerline of the CSX Railroad, the point of beginning.

(Code 1993, § 9-43; Code 2004, § 30-82; Code 2015, § 9-63)

Sec. 9-64. Precinct 111.

Election Precinct 111 shall be described as follows:

Beginning at the intersection of the centerlines of Willow Lawn Drive and the 1970 corporation line; thence in a generally eastward direction along the 1970 corporation line to its intersection with the centerline of Shenandoah Street extended; thence in a southward direction along the centerline of Shenandoah Street extended and Shenandoah Street to its intersection with the centerline of Patterson Avenue; thence in a westward direction along the centerline of Patterson Avenue to its intersection with the centerline of Harlan Circle; thence in a northward direction along the centerline of Harlan Circle to its intersection with the centerline of Park Avenue; thence in a westward direction along the centerline of Park Avenue to its intersection with the centerline of Greenway Lane; thence in a northward direction along the centerline of Greenway Lane to its intersection with the centerline of West Franklin Street; thence in a westward direction along the centerline of West Franklin Street to its intersection with the centerline of Willow Lawn Drive; thence in a northward direction along the centerline of Willow Lawn Drive to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-44; Code 2004, § 30-83; Code 2015, § 9-64)

Sec. 9-65. Precinct 112.

Election Precinct 112 shall be described as follows:

Beginning at the intersection of the centerlines of Shenandoah Street extended from the south to its intersection with the 1970 corporation line; thence in a southward direction along the centerline of Shenandoah Street extended and Shenandoah Street to its intersection with the centerline of Patterson Avenue; thence in an eastward direction along the centerline of Patterson Avenue to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the

centerline of West Broad Street; thence in a westward direction along the centerline of West Broad Street to its intersection with the centerline of Westwood Avenue; thence in a northward direction along the centerline of Westwood Avenue to its intersection with the 1970 corporation line; thence westward along the 1970 corporation line to its intersection with Shenandoah Street extended, the point of beginning.

(Code 1993, § 9-45; Code 2004, § 30-84; Code 2015, § 9-65; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-66. Precinct 113.

Election Precinct 113 shall be described as follows:

Beginning at the intersection of the centerline of the CSX Railroad with the centerline of West Broad Street; thence along the centerline of West Broad Street in an eastward direction to its intersection with the centerline of Cleveland Street; thence along the centerline of Cleveland Street in a southward direction to its intersection with the centerline of Monument Avenue; thence along the centerline of Monument Avenue in an eastward direction to its intersection with the centerline of North Boulevard; thence along the centerline of North Boulevard in a southward direction to its intersection with the centerline of Kensington Avenue; thence along the centerline of Kensington Avenue in a westward direction to its intersection with the centerline of Patterson Avenue; thence along the centerline of Patterson Avenue in a westward direction to its intersection with the centerline of the CSX Railroad; thence along the centerline of the CSX Railroad in a northward direction to its intersection with the centerline of West Broad Street, the point of beginning.

(Code 1993, § 9-46; Code 2004, § 30-85; Code 2015, § 9-66; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-67. Precinct 114.

Election Precinct 114 shall be described as follows:

Beginning at the intersection of the centerlines of the CSX Railroad and Patterson Avenue; thence in an eastward direction along the centerline of Patterson Avenue to its intersection with the centerline of Kensington Avenue; thence in an eastward direction along the centerline of Kensington Avenue to its intersection with the centerline of North Boulevard; thence in a southward direction along the centerline of North Boulevard to its intersection with the centerline of Ellwood Avenue; thence in a westward direction along the centerline of Ellwood Avenue and Ellwood Avenue extended to its intersection with the centerline of the northbound lane of I-195; thence in a southward direction along the centerline of the northbound lane of I-95 to its intersection with the centerline of West Cary Street; thence in a westward direction along the centerline of West Cary Street to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline of Patterson Avenue, the point of beginning.

(Code 1993, § 9-47; Code 2004, § 30-86; Code 2015, § 9-67; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-68. Precinct 115.

Election Precinct 115 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Maple Avenue; thence in a southward direction along the centerline of Maple Avenue to its intersection with the centerline of Guthrie Avenue; thence in an eastward direction along the centerline of Guthrie Avenue to its intersection with the centerline of Libbie Avenue; thence in a southward direction along the centerline of Libbie Avenue to its intersection with the centerline of Grove Avenue; thence in a westward direction along the centerline of Grove Avenue to its intersection with the centerline of Three Chopt Road East Leg; thence in a northward direction along the centerline of Three Chopt Road East Leg to the point at which it becomes Towana Road; thence in a northward direction along the centerline of Towana Road to its intersection with the centerline of Three Chopt Road; thence in an northwestward direction along the centerline of Three Chopt Road to its intersection with the 1970 corporation line; thence in a generally eastward direction along the 1970 corporation line to its intersection with the centerline of Maple Avenue, the point of beginning.

(Code 2015, § 9-67.1; Ord. No. 2018-116, § 2, 4-23-2018)

Sec. 9-69. Precinct 203.

Election Precinct 203 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the centerline of West Laburnum Avenue; thence in an eastward direction along the centerline of West Laburnum Avenue to its intersection with the centerline of Gloucester Road; thence in a southward direction along the centerline of Gloucester Road to its intersection with the centerline of Westwood Avenue; thence in an eastward direction along the centerline of Westwood Avenue to its intersection with the centerline of Brook Road; thence in a southward direction along the centerline of Brook Road to its intersection with the centerline of Sherwood Avenue; thence in a westward direction along the centerline of Sherwood Avenue to its intersection with the centerline of I-95; thence in a northwestward direction along the centerline of I-95 to its intersection with the centerline of Westwood Avenue; thence in a westward direction along the centerline of Westwood Avenue to its intersection with the 1970 corporation line; thence northward along the 1970 corporation line to its intersection with the centerline of West Laburnum Avenue, the point of beginning.

(Code 1993, § 9-48; Code 2004, § 30-87; Code 2015, § 9-68; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2019-009, § 1, 1-28-2019)

Sec. 9-70. Precinct 204.

Election Precinct 204 shall be described as follows:

Beginning at the intersection of Stuart Circle and Park Avenue; thence along the centerline of Park Avenue in a westward direction to its intersection with the centerline of North Boulevard; thence along the centerline of North Boulevard in a northward direction to its intersection with the westbound lane of Monument Avenue; thence along the westbound lane of Monument Avenue in a westward direction to its intersection with the centerline of Cleveland Street; thence along the centerline of Cleveland Street in a northward direction to its intersection with the eastbound lane of West Broad Street; thence along the eastbound lane of West Broad Street in an eastward direction to its intersection with the centerline of Lodge Street; thence along the centerline of Lodge Street in a northward direction to its intersection with the westbound lane of West Broad Street; thence along the westbound lane of West Broad Street in an eastward direction to its intersection with the centerline of North Lombardy Street; thence along the centerline of North Lombardy Street in a southward direction to the point at which it become Stuart Circle; thence along the centerline of Stuart Circle in a southward direction to its intersection with the centerline of Park Avenue, the point of beginning.

(Code 1993, § 9-49; Code 2004, § 30-88; Code 2015, § 9-69; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-71. Precinct 206.

Election precinct 206 shall be described as follows:

Beginning at the intersection of the centerlines of North Harrison Street and the eastbound lane of West Broad Street; thence in a westward direction along the eastbound lane of West Broad Street to its intersection with the centerline of North Lombardy Street; thence in a southward direction along the centerline of North Lombardy Street to its intersection with the centerline of Park Avenue; thence in an eastward direction along Park Avenue to its intersection with the centerline of North Harrison Street; thence a northward direction along the centerline of North Harrison Street to its intersection with the centerline of the eastbound lane of West Broad Street, the point of beginning.

(Code 1993, § 9-50; Code 2004, § 30-89; Code 2015, § 9-70; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2017-145, § 1, 9-5-2017)

Sec. 9-72. Precinct 207.

Election Precinct 207 shall be described as follows:

Beginning at the intersection of the centerlines of Park Avenue and North Shields Avenue; thence in a southward direction along the centerline of North Shields Avenue to its intersection with the centerline of West Main Street; thence in a westward direction along the centerline of West Main Street to its intersection with the southbound lane of North Boulevard; thence in a northward direction along the southbound lane of North Boulevard to its intersection with the centerline of Park Avenue; thence in an eastward direction along the centerline of Park Avenue to its intersection with the centerline of North Shields Avenue, the point of

beginning.

(Code 1993, § 9-51; Code 2004, § 30-90; Code 2015, § 9-71; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-73. Precinct 208.

Election Precinct 208 shall be described as follows:

Beginning at the intersection of North Harrison Street and Park Avenue; thence in a westward direction along the centerline of Park Avenue to its intersection with the centerline of North Shields Avenue; thence in a southward direction along the centerline of North Shields Avenue to its intersection with the centerline of Floyd Avenue; thence in an eastward direction along the centerline of Floyd Avenue to its intersection with the centerline of North Harrison Street; thence in a northward direction along the centerline of North Harrison Street to its intersection with the centerline of Park Avenue, the point of beginning.

(Code 1993, § 9-52; Code 2004, § 30-91; Code 2015, § 9-72; Ord. No. 2017-145, § 1, 9-5-2017)

Sec. 9-74. Precinct 213.

Election Precinct 213 shall be described as follows:

Beginning at the centerline of I-64 and I-95 and North Lombardy Street; thence in a southward direction along the centerline of North Lombardy Street to its intersection with the eastbound lane of West Broad Street; thence in an eastward direction along the eastbound lane of West Broad Street to the point at which it becomes the eastbound lane of East Broad Street; thence in an eastward direction along the eastbound lane of East Broad Street to its intersection with the centerline of North 2nd Street; thence in a northward direction along the centerline of North 2nd Street to its intersection with the centerline of East Duval Street; thence in a westward direction along the centerline of East Duval Street to its intersection with the centerline of North 1st Street; thence in a northward direction along the centerline of North 1st Street to its intersection with the eastbound lane of I-64 and I-95; thence in a westward direction along the eastbound lane of I-64 and I-95 to its intersection with the centerline of North Lombardy Street, the point of beginning.

(Code 1993, § 9-55; Code 2004, § 30-94; Code 2015, § 9-73; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-75. Precinct 214.

Election precinct 214 shall be described as follows:

Beginning at the intersection of the centerlines of North Harrison Street and Floyd Avenue; thence in an eastward direction along the centerline of Floyd Avenue to the point at which it becomes South Cathedral Place; thence in an eastward direction along the centerline of South Cathedral Place to its intersection with North Laurel Street; thence in a southward direction along the centerline of North Laurel Street to its intersection with the centerline of West Main Street; thence in an eastward direction along the centerline of West Main Street to its intersection with the northbound lane of South Belvidere Street; thence in a southward direction along the northbound lane of South Belvidere Street to its intersection with the centerline of West Canal Street; thence in an eastward direction along the centerline of West Canal Street to its intersection with the centerline of South Adams Street; thence in a northward direction along the centerline of South Adams Street to the point at which it becomes North Adams Street; thence in a northward direction along the centerline of North Adams Street to its intersection with the eastbound lane of West Broad Street; thence in a westward direction along the eastbound lane of West Broad Street to its intersection with the centerline of North Harrison Street; thence in a southward direction along the centerline of North Harrison Street to its intersection with the centerline of Floyd Avenue, the point of beginning.

(Code 2015, § 9-73.1; Ord. No. 2017-145, § 2, 9-5-2017)

Sec. 9-76. Precinct 215.

Election Precinct 215 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the centerline of Westwood Avenue; thence in an eastward direction along the centerline of Westwood Avenue to its intersection with the centerline of I-95; thence in a southward direction along the centerline of I-95 to its intersection with the centerline of Overbrook Road; thence in a westward direction along the centerline of Overbrook Road to its intersection with the

centerline of Hermitage Road; thence in a southward direction along the centerline of Hermitage Road to the point at which it becomes North Meadow Street; thence in a southward direction along the centerline of North Meadow Street to its intersection with West Broad Street; thence in a westward direction along the centerline of West Broad Street to its intersection with Westwood Avenue; thence in a northward direction along the centerline of Westwood Avenue to its intersection with the 1970 corporation line; thence northward along the 1970 corporation line to its intersection with the centerline of Westwood Avenue, the point of beginning.

(Code 2015, § 9-73.2; Ord. No. 2019-009, § 2, 1-28-2019)

Sec. 9-77. Precinct 301.

Election Precinct 301 shall be described as follows:

Beginning at the intersection of the centerlines of Chamberlayne Avenue with the 1970 corporation line; thence along the 1970 corporation line in a generally eastward direction to its intersection with the centerline of West Laburnum Avenue; thence along the centerline of West Laburnum Avenue in a westward direction to its intersection with the centerline of Chamberlayne Avenue; thence along the centerline of Chamberlayne Avenue in a northward direction to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-56; Code 2004, § 30-95; Code 2015, § 9-74)

Sec. 9-78. Precinct 302.

Election Precinct 302 shall be described as follows:

Beginning at the intersection of the centerline of West Laburnum Avenue with the centerline of Edgewood Avenue; thence along the centerline of Edgewood Avenue in a southward direction to its intersection with the centerline of Henrico Boulevard; thence in an eastward direction along the centerline of Henrico Boulevard to its intersection with the centerline of Edgewood Avenue; thence in a southward direction along the centerline of Edgewood Avenue to its intersection with the centerline of Brookland Park Boulevard; thence along the centerline of Brookland Park Boulevard in a westward direction to its intersection with the centerline of Chamberlayne Avenue; thence along the centerline of Chamberlayne Avenue in a northward direction to its intersection with the centerline of West Laburnum Avenue; thence along the centerline of West Laburnum Avenue in an eastward direction to its intersection with the centerline of Edgewood Avenue, the point of beginning.

(Code 1993, § 9-57; Code 2004, § 30-96; Code 2015, § 9-75)

Sec. 9-79. Precinct 303.

Election Precinct 303 shall be described as follows:

Beginning at the intersection of the centerlines of the 1970 corporation line and Pilots Lane; thence in a southward direction along the centerline of Pilots Lane to its intersection with the centerline of North Avenue; thence in a southward direction along the centerline of North Avenue to its intersection with the centerline of Brookland Park Boulevard; thence in a westward direction along the centerline of Brookland Park Boulevard to its intersection with the centerline of Edgewood Avenue; thence in a northward direction along the centerline of Edgewood Avenue to its intersection with the centerline of Henrico Boulevard; thence in a westward direction along the centerline of Henrico Boulevard to its intersection with the centerline of Edgewood Avenue; thence in a northward direction along the centerline of Edgewood Avenue to its intersection with the centerline of West Laburnum Avenue; thence in an eastward direction along the centerline of West Laburnum Avenue to its intersection with the 1970 corporation line; thence in a southeastward direction along the 1970 corporation line to its intersection with the centerline of Pilots Lane, the point of beginning.

(Code 1993, § 9-58; Code 2004, § 30-97; Code 2015, § 9-76)

Sec. 9-80. Precinct 304.

Election Precinct 304 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Meadowbridge Road; thence in a southward direction along the centerline of Meadowbridge Road to its intersection with the centerline of Bancroft

Avenue; thence in a westward direction along the centerline of Bancroft Avenue to its intersection with the centerline of Richmond-Henrico Turnpike; thence in a southward direction along the centerline of Richmond-Henrico Turnpike to its intersection with the centerline of the Ravine; thence in a westward direction along the centerline of the Ravine to its intersection with the centerline of East Lancaster Road extended; thence in a westward direction along the centerline of East Lancaster Road extended to its intersection with the centerline of Lamb Avenue; thence in a northward direction along the centerline of Lamb Avenue to its intersection with the centerline of East Norwood Avenue; thence in an eastward direction along the centerline of East Norwood Avenue to its intersection with the census block boundary; thence in a northward direction along the census block boundary to its intersection with the centerline of East Hooper Street; thence in a westward direction along the centerline of East Hooper Street to its intersection with the centerline of North Avenue; thence in a northward direction along the centerline of North Avenue to its intersection with the centerline of Pilots Lane; thence in a northward direction along the centerline of Pilots Lane to its intersection with the 1970 corporation line; thence in a generally eastward direction along the centerline of the 1970 corporation line to its intersection with the centerline of Meadowbridge Road, the point of beginning.

(Code 1993, § 9-59; Code 2004, § 30-98; Code 2015, § 9-77; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-81. Precinct 305.

Election Precinct 305 shall be described as follows:

Beginning at the intersection of the centerlines of Brookland Park Boulevard and North Avenue; thence in a southward direction along the centerline of North Avenue to its intersection with the centerline of West Hooper Street; thence in a westward direction along the centerline of West Hooper Street to its intersection with the centerline of Fendall Avenue; thence in a southward direction along the centerline of Fendall Avenue to its intersection with the centerline of Overbrook Road; thence in an eastward direction along the centerline of Overbrook Road to its intersection with the centerline of Miller Avenue; thence in a southward direction along the centerline of Miller Avenue to its intersection with the centerline of Yancey Street; thence in an eastward direction along the centerline of Yancey Street to its intersection with the centerline of Rose Avenue; thence in a southward direction along the centerline of Rose Avenue to its intersection with the centerline of Fells Street; thence in an eastward direction along the centerline of Fells Street to its intersection with the centerline of St. James Street; thence in a southward direction along the centerline of St. James Street to its intersection with the centerline of the CSX Railroad; thence in a westward direction along the centerline of the CSX Railroad to its intersection with the centerline of North Belvidere Street; thence in a northward direction along the centerline of North Belvidere Street to its intersection with the centerline of Chamberlayne Avenue; thence in a northward direction along the centerline of Chamberlayne Avenue to its intersection with the centerline of Brookland Park Boulevard; thence in an eastward direction along the centerline of Brookland Park Boulevard to its intersection with the centerline of North Avenue, the point of beginning.

(Code 1993, § 9-60; Code 2004, § 30-99; Code 2015, § 9-78; Ord. No. 2004-207-188, § 2, 7-12-2004; Ord. No. 2005-293-2006-19, § 2, 1-23-2006; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-82. Precinct 306.

Election Precinct 306 shall be described as follows:

Beginning at the intersection of the centerlines of Brookland Park Boulevard and Chamberlayne Avenue; thence in a southward direction along the centerline of Chamberlayne Avenue to the point at which it becomes North Belvidere Street; thence in a southward direction along the centerline of North Belvidere Street to its intersection with the centerline of I-95; thence in a westward and northward direction along the centerline of I-95 to its intersection with the centerline of North Lombardy Street; thence in a southward direction along the centerline of North Lombardy Street to its intersection with the westbound lane of West Broad Street; thence in a westward direction along the westbound lane of West Broad Street to its intersection with the centerline of Lodge Street; thence in a southward direction along the centerline of Lodge Street to its intersection with the eastbound lane of West Broad Street; thence in a westward direction along the eastbound lane of West Broad Street to its intersection with the southbound lane of North Meadow Street; thence in a northward direction along the southbound lane of North Meadow Street to the point at which it becomes Hermitage Road; thence in a northward direction along the southbound lane of Hermitage Road to its

intersection with the centerline of Overbrook Road; thence in an eastward direction along the centerline of Overbrook Road to its intersection with the southbound lane of I-95; thence in a northward direction along the southbound lane of I-95 to its intersection with Sherwood Avenue; thence in an eastward direction along the centerline of Sherwood Avenue to its intersection with the southbound lane of Brook Road; thence in a northward direction along the southbound lane of Brook Road to its intersection with the centerline of Brookland Park Boulevard; thence in an eastward direction along the centerline of Brookland Park Boulevard to its intersection with the centerline of Chamberlayne Avenue, the point of beginning.

(Code 2004, § 30-100; Code 2015, § 9-79; Ord. No. 2005-293-2006-19, § 3, 1-23-2006; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-83. Precinct 307.

Election Precinct 307 shall be described as follows:

Beginning at the intersection of the centerline of Claremont Avenue and the northbound lane of Chamberlayne Avenue; thence in a southward direction along the northbound lane of Chamberlayne Avenue to its intersection with the centerline of Brookland Park Boulevard; thence in a westward direction along the centerline of Brookland Park Boulevard to its intersection with the southbound lane of Brook Road; thence in a northward direction along the southbound lane of Brook Road to its intersection with the centerline of Westwood Avenue; thence in a westward direction along the centerline of Westwood Avenue to its intersection with the centerline of Gloucester Road; thence in a northward direction along the centerline of Gloucester Road to its intersection with the westbound lane of West Laburnum Avenue; thence in a westward direction along the westbound lane of West Laburnum Avenue to its intersection with the centerline of Chatham Road; thence in a southward direction along the centerline of Chatham Road to its intersection with the eastbound lane of West Laburnum Avenue; thence in a westward direction along the eastbound lane of West Laburnum Avenue to its intersection with the centerline of Monticello Street; thence in a northward direction along the centerline of Monticello Street to its intersection with the centerline of Nottoway Avenue; thence in an eastward direction along the centerline of Nottoway Avenue to its intersection with the centerline of MacArthur Avenue; thence in a southward direction along the centerline of MacArthur Avenue to its intersection with the centerline of Nottoway Avenue; thence in an eastward direction along the centerline of Nottoway Avenue to its intersection with the centerline of Brook Road; thence in a southward direction along the centerline of Brook Road to its intersection with the centerline of Claremont Avenue; thence in an eastward direction along the centerline of Claremont Avenue to its intersection with the northbound lane of Chamberlayne Avenue, the point of beginning.

(Code 1993, § 9-62; Code 2004, § 30-101; Code 2015, § 9-80; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-84. Precinct 308.

Election Precinct 308 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the northbound lane of Chamberlayne Avenue; thence in a southward direction along the northbound lane of Chamberlayne Avenue to its intersection with the centerline of Claremont Avenue; thence in a westward direction along the centerline of Claremont Avenue to its intersection with the centerline of Brook Road; thence in a northward direction along the centerline of Brook Road to its intersection with the centerline of Nottoway Avenue; thence in a westward direction along the centerline of Nottoway Avenue to its intersection with the centerline of MacArthur Avenue; thence in a northward direction along the centerline of MacArthur Avenue to its intersection with the centerline of Nottoway Avenue; thence in a westward direction along the centerline of Nottoway Avenue to its intersection with the centerline of Monticello Street; thence in a northward direction along the centerline of Monticello Street to its intersection with the centerline of Bellevue Avenue; thence in an eastward direction along the centerline of Bellevue Avenue to its intersection with the centerline of Crestwood Road; thence in a northward direction along the centerline of Crestwood Road to its intersection with the centerline of Westbrook Avenue; thence in a westward direction along the centerline of Westbrook Avenue to its intersection with the centerline of the census block boundary; thence in a northward direction along the centerline of the census block boundary to its intersection with the 1970 corporation line; thence in a generally eastward direction along the 1970 corporation line to its intersection with the northbound lane of Chamberlayne Avenue, the point of

beginning.

(Code 1993, § 9-63; Code 2004, § 30-102; Code 2015, § 9-81; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-85. Precinct 309.

Election Precinct 309 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the centerline of the census block boundary; thence in a southward direction along the centerline of the census block boundary to its intersection with the centerline of Westbrook Court; thence in a southward direction along the centerline of Westbrook Court to the point at which it becomes Crestwood Road; thence in a southward direction along the centerline of Crestwood Road to its intersection with the centerline of Bellevue Avenue; thence in a westward direction along the centerline of Bellevue Avenue to its intersection with the centerline of Monticello Street; thence in a southward direction along the centerline of Monticello Street to its intersection with the eastbound lane of West Laburnum Avenue; thence in a westward direction along the eastbound lane of West Laburnum Avenue to its intersection with the 1970 corporation line; thence in a northward, then eastward direction along the 1970 corporation line to its intersection with the centerline of Westbrook Court, the point of beginning.

(Code 1993, § 9-64; Code 2004, § 30-103; Code 2015, § 9-82; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-86. Precinct 310.

Election Precinct 310 shall be described as follows:

Beginning at the intersection of the CSX Railroad and North 2nd Street; thence in a westward direction along the centerline of the CSX Railroad to its intersection with the centerline of North Belvidere Street; thence in a southward direction along the centerline of North Belvidere Street to its intersection with the eastbound lane of I-64 and I-95; thence in an eastward direction along the eastbound lane of I-64 and I-95 to its intersection with the centerline of North 2nd Street; thence in a northward direction along the centerline of North 2nd Street to its intersection with the centerline of the CSX Railroad, the point of beginning.

(Code 2004, § 30-103.1; Code 2015, § 9-83; Ord. No. 2011-215-2012-4, § 2, 1-9-2012)

Sec. 9-87. Precinct 402.

Election Precinct 402 shall be described as follows:

Beginning at the intersection of the centerlines of the James River and Reedy Creek projected; thence in a southward direction along the centerline of the projection of Reedy Creek and the centerline of Reedy Creek to its intersection with the centerline of Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of West Roanoke Street; thence in a southward direction along the centerline of West Roanoke Street to its intersection with the centerline of Dunston Avenue; thence in a westward direction along the centerline of Dunston Avenue to its intersection with the centerline of Reedy Creek; thence in a westward direction along the centerline of Reedy Creek to its intersection with the centerline of West 44th Street; thence in a northward direction along the centerline of West 44th Street to its intersection with the centerline of Reedy Avenue; thence in a westward direction along the centerline of Reedy Avenue to its intersection with the centerline of West 45th Street; thence in a southward direction along the centerline of West 45th Street and West 45th Street extended to its intersection with the centerline of Bassett Avenue; thence in a westward direction along the centerline of Bassett Avenue to its intersection with the centerline of Westover Hills Boulevard; thence in a northward direction along the centerline of Westover Hills Boulevard to its intersection with the centerline of West 49th Street; thence in a westward direction along the centerline of West 49th Street to its intersection with the centerline of Westover Hills Boulevard; thence in a northward direction along the centerline of Westover Hills Boulevard to its intersection with the centerline of Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline of the James River; thence in an eastward direction along the centerline of the James River to its intersection with the projection of the centerline of Reedy Creek, the point of beginning.

(Code 1993, § 9-65; Code 2004, § 30-104; Code 2015, § 9-84; Ord. No. 2004-204-185, § 2, 7-12-2004; Ord. No. 2011-215-

2012-4, § 3, 1-9-2012)

Sec. 9-88. Precinct 404.

Election Precinct 404 shall be described as follows:

Beginning at the intersection of the Powhite Parkway and Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of Bliley Road; thence in a westward direction along the centerline of Bliley Road to its intersection with the centerline of Whitlone Drive; thence in a southward direction along the centerline of Whitlone Drive to its intersection with the centerline of Westower Drive; thence in a westward direction along the centerline of Westower Drive to its intersection with the centerline of Blakemore Road; thence in a southward direction along the centerline of Blakemore Road to its intersection with the centerline of Glenway Drive to its intersection with the centerline of Blandy Avenue; thence in a southward direction along the centerline of Blandy Avenue to its intersection with the centerline of Wainwright Drive; thence in a southeastward direction along the centerline of Wainwright Drive to its intersection with the centerline of Bradley Lane; thence in a northward direction along the centerline of Bradley Lane to its intersection with the centerline of Spruance Road; thence in a northward direction along the centerline of Spruance Road to its intersection with the centerline of Jahnke Road; thence in an eastward direction along the centerline of Jahnke Road to its intersection with the centerline of Byswick Lane; thence in a northward direction along the centerline of Byswick Lane to its intersection with the centerline of Reedy Avenue; thence in an eastward direction along the centerline of Reedy Avenue to its intersection with the centerline of Boroughbridge Road; thence in a southward direction along the centerline of Boroughbridge Road to its intersection with the centerline of Bassett Avenue; thence in an eastward direction along the centerline of Bassett Avenue to its intersection with the centerline of Westover Hills Boulevard; thence in a northward direction along the centerline of Westover Hills Boulevard to its intersection with the centerline of Dunston Avenue; thence in a westward direction along the centerline of Dunston Avenue to its intersection with the centerline of West 49th Street; thence in a northward direction along the centerline of West 49th Street to its intersection with the centerline of Westover Hills Boulevard; thence in a northward direction along the centerline of Westover Hills Boulevard to its intersection with the centerline of Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline of the James River; thence in a westward direction along the centerline of the James River to its intersection with the centerline of the Powhite Parkway; thence in a westward direction along the centerline of the Powhite Parkway to its intersection with the centerline of Forest Hill Avenue, the point of beginning.

(Code 1993, § 9-67; Code 2004, § 30-106; Code 2015, § 9-85; Ord. No. 2004-204-185, § 2, 7-12-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-89. Precinct 409.

Election Precinct 409 shall be described as follows:

Beginning at the intersection of the James River and the centerline of Chippenham Parkway; thence in a southward direction along the centerline of Chippenham Parkway to its intersection with the centerline of Cherokee Road; thence in a westward direction along the centerline of Cherokee Road to its intersection with the centerline of Saratoga Road; thence in a southward direction along the centerline of Saratoga Road to its intersection with the centerline of Yuma Road; thence in a westward direction along the centerline of Yuma Road to its intersection with the centerline of Cheyenne Road; thence in a southward direction along the centerline of Cheyenne Road to its intersection with the centerline of Lochinvar Drive; thence in a southward direction along the centerline of Lochinvar Drive to its intersection with Fernleigh Drive; thence in a southeastward direction along the centerline of Fernleigh Drive to its intersection with Ellsworth Road; thence in a southward direction along the centerline of Ellsworth Road to its intersection with the centerline of Evansway Lane; thence in a westward direction along the centerline of Evansway Lane to its intersection with the centerline of Westgate Drive; thence in a southward direction along the centerline of Westgate Drive to its intersection with the centerline of Bannister Lane; thence in a westward direction along the centerline of Bannister Lane to its intersection with the centerline of Wighton Drive; thence in a northward and westward

direction along the centerline of Wighton Drive to the point at which it becomes Scarsborough Drive; thence in a southward direction along the centerline of Scarsborough Drive to its intersection with the 1970 corporation line; thence in a generally west and northward direction along the 1970 corporation line to its intersection with the James River; thence in an eastward direction along the James River to its intersection with the centerline of Chippenham Parkway, the point of beginning.

(Code 1993, § 9-68; Code 2004, § 30-107; Code 2015, § 9-86; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2019-010, § 1, 1-28-2019)

Sec. 9-90. Precinct 410.

Election Precinct 410 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and the northbound lane of North Huguenot Road; thence in a southwestward direction along the northbound lane of North Huguenot Road to its intersection with the 1970 corporation line; thence in a generally southeastward direction along the 1970 corporation line to its intersection with the centerline of Chippenham Parkway; thence in a southward direction along the centerline of Chippenham Parkway to its intersection with the centerline of the Powhite Parkway; thence in an eastward direction along the centerline of the Powhite Parkway to its intersection with the centerline of Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of Chippenham Parkway; thence in a northwestward direction along the centerline of Chippenham Parkway to its intersection with the northbound lane of North Huguenot Road; thence in a southward direction along the northbound lane of North Huguenot Road to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-69; Code 2004, § 30-108; Code 2015, § 9-87; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-91. Precinct 412.

Election Precinct 412 shall be described as follows:

Beginning at the intersection of the Powhite Parkway and Forest Hill Avenue; thence in a westward direction along the centerline of Powhite Parkway to its intersection with the centerline of Chippenham Parkway; thence in a southward direction along the centerline of Chippenham Parkway to its intersection with the centerline of Jahnke Road; thence in an eastward direction along the centerline of Jahnke Road to its intersection with the centerline of St. John's Wood Drive; thence in a southeastward direction along the centerline of St. John's Wood Drive to its intersection with the centerline of Lisson Crescent; thence in a westward direction along the centerline of Lisson Crescent to its intersection with St. Ann's Drive; thence in a southward direction along the centerline of St. Ann's Drive to its intersection with the centerline of Lisson Crescent; thence in an eastward direction along the centerline of Lisson Crescent to its intersection with the centerline of St. John's Wood Drive; thence in a northward direction along the centerline of St. John's Wood Drive to its intersection with the centerline of Primrose Place; thence in a northeastward direction along the centerline of Primrose Place to its intersection with the centerline of Primrose Place service access road; thence in a northeastward direction along the centerline of Primrose Place service access road to its intersection with the centerline of German School Road; thence in a southward direction along the centerline of German School Road to its intersection with the centerline of Glenway Drive; thence in an eastward direction along the centerline of Glenway Drive to its intersection with the centerline of Blakemore Road; thence in a northward direction along the centerline of Blakemore Road to its intersection with the centerline of Westower Drive; thence in an eastward direction along the centerline of Westower Drive to its intersection with Whitlone Drive; thence in a northward direction along the centerline of Whitlone Drive to its intersection with Bliley Road; thence in an eastward direction along the centerline of Bliley Road to its intersection with the centerline of Forest Hill Avenue; thence in a northward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of the Powhite Parkway, the point of beginning.

(Code 1993, § 9-71; Code 2004, § 30-110; Code 2015, § 9-88; Ord. No. 2004-204-185, § 2, 7-12-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-92. Precinct 413.

Election Precinct 413 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Rattlesnake Creek; thence in a southward direction along Rattlesnake Creek to its intersection with the centerline of Riverside Drive; thence in an eastward direction along the centerline of Riverside Drive to its intersection with the centerline of the right fork of Hill Drive; thence in a southward direction along the centerline of the right fork of Hill Drive to its intersection with the centerline of Hill Drive; thence in an eastward direction along the centerline of Hill Drive to its intersection with the centerline of Lewis Avenue; thence in a westward direction along the centerline of Lewis Avenue to its intersection with the centerline of Rockfalls Drive; thence in a westward direction along the centerline of Rockfalls Drive to its intersection with the centerline of Granite Hall Avenue; thence in a westward direction along the centerline of Granite Hall Avenue to its intersection with the centerline of Turf Lane; thence in a southward direction along the centerline of Turf Lane to its intersection with Comanche Drive; thence in a southward direction along the centerline of Comanche Drive to its intersection with the centerline of Meridale Road; thence in a westward direction along the centerline of Meridale Road to its intersection with the centerline of Tanglewood Road; thence in a westward direction along the centerline of Tanglewood Road to its intersection with the centerline of Cheverly Road; thence in a southward direction along the centerline of Cheverly Road to its intersection with the centerline of Prairie Road; thence in an eastward direction along the centerline of Prairie Road to its intersection with the centerline of Chellowe Road; thence in a northward direction along the centerline of Chellowe Road to its intersection with the centerline of Marilea Road; thence in an eastward direction along the centerline of Marilea Road to its intersection with the centerline of Bradwill Road; thence in a southward direction along the centerline of Bradwill Road to its intersection with the centerline of Prairie Road; thence in an eastward direction along the centerline of Prairie Road to its intersection with Rockfalls Creek; thence in a southward direction along Rockfalls Creek to its intersection with the northbound lane of Chippenham Parkway; thence in a northward direction along the northbound lane of Chippenham Parkway to its intersection with the centerline of Ingalls Drive; thence in a westward direction at the intersection of the northbound lane of Chippenham Parkway and the centerline of Ingalls Drive to the southbound lane of Chippenham Parkway; thence in a southward direction along the southbound lane of Chippenham Parkway to its intersection with the centerline of Forest Hill Avenue; thence in an eastward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of the Powhite Parkway; thence in a northeastward direction along the centerline of the Powhite Parkway to its intersection with the centerline of the James River; thence in a westward direction along the centerline of the James River to its intersection with the 1970 corporation line; thence in generally westward direction along the 1970 corporation line to its intersection with Rattlesnake Creek, the point of beginning.

(Code 1993, § 9-72; Code 2004, § 30-111; Code 2015, § 9-89; Ord. No. 2004-204-185, § 2, 7-12-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-93. Precinct 414.

Election Precinct 414 shall be described as follows:

Beginning at the intersection of the southern shore of the James River and the centerline of Chippenham Parkway; thence in a southward direction along the centerline of Chippenham Parkway to its intersection with the centerline of the eastbound ramp to North Huguenot Road; thence in an eastward direction along the centerline of the eastbound ramp to North Huguenot Road to its intersection with the centerline of the southbound lane of North Huguenot Road; thence in a northward direction along the southbound lane of North Huguenot Road to its intersection with the centerline of Rubimont Road; thence in an eastward direction along the centerline of Rubimont Road to its intersection with the northbound lane of North Huguenot Road; thence in a northward direction along the northbound lane of North Huguenot Road to its intersection with the centerline of Chippenham Parkway; thence in an eastward direction along the centerline of Chippeham Parkway to its intersection with the centerline of Ingalls Drive; thence in an eastward direction along the centerline of Ingalls Drive to its intersection with the centerline of Chippenham Parkway; thence in an eastward direction along the centerline of Chippenham Parkway to its intersection with Rockfalls Creek; thence in a northward direction along Rockfalls Creek to its intersection with the centerline of Prairie Road; thence in a westward direction along the centerline of Prairie Road to its intersection with the centerline of Bradwill Road; thence in an eastward direction along the centerline of Bradwill Road to its intersection with the centerline of Marilea Road; thence in a westward direction along the centerline of Marilea Road to its intersection with the centerline of Chellowe Road; thence in a southward direction along the centerline of

Chellowe Road to its intersection with the centerline of Prairie Road; thence in a westward direction along the centerline of Prairie Road to its intersection with the centerline of Cheverly Road; thence in a northward direction along the centerline of Cheverly Road to its intersection with the centerline of Tanglewood Road; thence in an eastward direction along the centerline of Tanglewood Road to its intersection with the centerline of Meridale Road; thence in an eastward direction along the centerline of Meridale Road to its intersection with the centerline of Comanche Drive; thence in a westward direction along the centerline of Comanche Drive to its intersection with the centerline of Turf Lane; thence in a westward direction along the centerline of Turf Lane to its intersection with the centerline of Granite Hall Avenue; thence in an eastward direction along the centerline of Granite Hall Avenue to its intersection with the centerline of Rockfalls Drive; thence in an eastward direction along the centerline of Rockfalls Drive to its intersection with the centerline of Lewis Avenue; thence in an eastward direction along the centerline of Lewis Avenue to its intersection with the centerline of Hill Drive; thence in a westward direction along the centerline of Hill Drive to its intersection with the centerline of Hill Drive right fork; thence northward along the centerline of Hill Drive right fork to its intersection with the centerline of Riverside Drive; thence in a westward direction along the centerline of Riverside Drive to its intersection with the centerline of Rattlesnake Creek; thence in a northward direction along Rattlesnake Creek to its intersection with the southern shore of the James River; thence in a westward direction along the southern shore of the James River to its intersection with the centerline of Chippenham Parkway, the point of beginning.

(Code 2004, § 30-111.1; Code 2015, § 9-90; Ord. No. 2011-215-2012-4, § 2, 1-9-2012)

Sec. 9-94. Precinct 415.

Election Precinct 415 shall be described as follows:

Beginning at the intersection of the centerline of Chippenham Parkway and Cherokee Road; thence in a southward direction along the centerline of Chippenham Parkway to its intersection with the eastbound ramp to North Huguenot Road; thence in an eastward direction along the eastbound ramp to North Huguenot Road to its intersection with the southbound lane of North Huguenot Road; thence in a northward direction along the southbound lane of North Huguenot Road to its intersection with the centerline of Rubimont Road; thence in an eastward direction along the centerline of Rubimont Road to its intersection with the northbound lane of North Huguenot Road; thence in a southward direction along the northbound lane of North Huguenot Road to its intersection with the 1970 corporation line; thence in a generally westward direction along the 1970 corporation line to its intersection with the centerline of Scarsborough Drive; thence in a northward direction along the centerline of Scarsborough Drive to the point at which it becomes Wighton Drive; thence in a southeastward direction along the centerline of Wighton Drive to its intersection with the centerline of Bannister Lane; thence eastward direction along the centerline of Bannister Lane to its intersection with the centerline of Westgate Drive; thence in a northward direction along the centerline of Westgate Drive to its intersection with the centerline of Evansway Lane; thence in an eastward direction along the centerline of Evansway Lane to its intersection with the centerline of Ellsworth Road; thence in a northward direction along the centerline of Ellsworth Road to its intersection with the centerline of Fernleigh Drive; thence in a northwestward direction along the centerline of Fernleigh Drive to its intersection with Lochinvar Drive; thence in a northward and westward direction along the centerline of Lochinvar Drive to its intersection with the centerline of Cheyenne Road; thence in a northward direction along the centerline of Cheyenne Road to its intersection with the centerline of Yuma Road; thence in an eastward direction along the centerline of Yuma Road to its intersection with the centerline of Saratoga Road; thence in a northward direction along the centerline of Saratoga Road to its intersection with the centerline of Cherokee Road; thence in an eastward direction along the centerline of Cherokee Road to its intersection with Chippenham Parkway, the point of beginning.

(Code 2015, § 9-90.1; Ord. No. 2019-009, § 2, 1-28-2019)

Sec. 9-95. Precinct 501.

Election Precinct 501 shall be described as follows:

Beginning at the intersection of the centerlines of South Robinson Street and West Main Street; thence in a southward direction along the centerline of South Robinson Street to its intersection with the centerline of the

Downtown Expressway; thence in a westward direction along the centerline of the Downtown Expressway to its intersection with the centerline of South Boulevard; thence in a southward direction along the centerline of South Boulevard to its intersection with the centerline of Blanton Avenue; thence in a southward direction along the centerline of Blanton Avenue to its intersection with the centerline of Rugby Street; thence in a southward direction along the centerline of Rugby Street to its intersection with the centerline of Bute Lane; thence in a westward direction along the centerline of Bute Lane to its intersection with the centerline of Powhite Parkway; thence in a northward direction along the centerline of Powhite Parkway to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline of West Cary Street; thence in an eastward direction along West Cary Street to its intersection with the centerline of the northbound lane of the Powhite Parkway; thence in a northward direction along the northbound lane of the Powhite Parkway to its intersection with the centerline of Ellwood Avenue extended; thence in an eastward direction along the centerline of Ellwood Avenue extended and Ellwood Avenue to the point at which it becomes West Main Street; thence in an eastward direction along the centerline of West Main Street to its intersection with the centerline of South Robinson Street, the point of beginning.

(Code 1993, § 9-73; Code 2004, § 30-112; Code 2015, § 9-91; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-96. Precinct 503.

Election Precinct 503 shall be described as follows:

Beginning at the intersection of the centerlines of South Harrison Street and Lakeview Avenue; thence in a southward direction along the centerline of South Harrison Street to its intersection with the centerline of Colorado Avenue; thence in a westward direction along the centerline of Colorado Avenue to its intersection with the centerline of Southampton Avenue extended; thence in a southward direction along the centerline of Southampton Avenue and Southampton Avenue projected to its intersection with the centerline of the James River; thence in a westward direction along the centerline of the James River to its intersection with the centerline of the Powhite Expressway; thence in a northward direction along the centerline of the Powhite Expressway to its intersection with the centerline of Bute Lane extended; thence in an eastward direction along the centerline of Bute Lane to its intersection with the centerline of Rugby Road; thence in a northward direction along the centerline of Rugby Road to its intersection with the centerline of Blanton Avenue; thence in a northward direction along the centerline of Blanton Avenue to its intersection with the centerline of South Boulevard; thence in a northward direction along the centerline of South Boulevard to its intersection with the centerline of the Downtown Expressway; thence in an eastward direction along the centerline of the Downtown Expressway to its intersection with the centerline of South Shields Avenue; thence in a southward direction along the centerline of South Shields Avenue to its intersection with the centerline of Lakeview Avenue; thence in an eastward direction along the centerline of Lakeview Avenue to its intersection with the centerline of South Harrison Street, the point of beginning.

(Code 1993, § 9-75; Code 2004, § 30-114; Code 2015, § 9-92; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2013-125-128, § 1, 7-8-2013)

Sec. 9-97. Precinct 504.

Election Precinct 504 shall be described as follows:

Beginning at the intersection of the centerlines of Floyd Avenue and North Harrison Street; thence in a southward direction along the centerline of North Harrison Street and South Harrison Street to its intersection with the centerline of Lakeview Avenue; thence in a westward direction along the centerline of Lakeview Avenue to its intersection with the centerline of South Shields Avenue; thence in a northward direction along the centerline of South Shields Avenue and Shields Avenue extended to its intersection with the centerline of the Downtown Expressway; thence in a westward direction along the centerline of the Downtown Expressway to its intersection with the centerline of South Robinson Street; thence in an northward direction along the centerline of South Robinson Street to its intersection with the centerline of West Main Street; thence in an eastward direction along the centerline of West Main Street to its intersection with the centerline of South Shields Avenue; thence in an northward direction along the centerline of South Shields Avenue and North Shields Avenue to its intersection with the centerline of Floyd Avenue; thence in an eastward direction along

the centerline of Floyd Avenue to its intersection with the centerline of North Harrison Street, the point of beginning.

(Code 1993, § 9-76; Code 2004, § 30-115; Code 2015, § 9-93; Ord. No. 2004-205-186, § 2, 7-12-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-98. Precinct 505.

Election Precinct 505 shall be described as follows:

Beginning at the intersection of South Belvidere Street and West Main Street; thence in a westward direction along the centerline of West Main Street to its intersection with the centerline of North Laurel Street; thence in a northward direction along the centerline of North Laurel Street to its intersection with the centerline of South Cathedral Place; thence in a westward direction along the centerline of South Cathedral Place to the point at which it becomes Floyd Avenue; thence in a westward direction along the centerline of Floyd Avenue to its intersection with the centerline of North Harrison Street; thence in a southwestward direction along the centerline of North Harrison Street to the point at which it becomes South Harrison Street; thence in a southward direction along the centerline of South Harrison Street to its intersection with the centerline of Colorado Avenue; thence in a westward direction along the centerline of Colorado Avenue to its intersection with the centerline of Southampton Avenue extended; thence in a southward direction along the centerline of Southampton Avenue and Southampton Avenue extended to its intersection with the centerline of the James River; thence in an eastward direction along the centerline of the James River to its intersection with the centerline of the Robert E. Lee Bridge; thence in a northward direction along the centerline of the Robert E. Lee Bridge to its intersection with the centerline of South 2nd Street; thence in a northward direction along the centerline of South 2nd Street to its intersection with the westbound lane of the Downtown Expressway; thence in a westward direction along the westbound lane of the Downtown Expressway to its intersection with the northbound lane South Belvidere Street; thence in a northward direction along the northbound lane of South Belvidere Street to its intersection with the centerline of West Main Street, the point of beginning.

(Code 1993, § 9-77; Code 2004, § 30-116; Code 2015, § 9-94; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2013-125-128, § 1, 7-8-2013)

Sec. 9-99. Precinct 508.

Election Precinct 508 shall be described as follows:

Beginning at the intersection of the centerline of the James River and the northbound lane of the Robert E. Lee Bridge; thence in a southward direction along the northbound lane of the Robert E. Lee Bridge to its intersection with the northbound lane of Cowardin Avenue; thence in a southward direction along the northbound lane of Cowardin Avenue to its intersection with the centerline of Semmes Avenue; thence in a southwestward direction along the centerline of Semmes Avenue to its intersection with the centerline of Forest Hill Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of Reedy Creek; thence in a northward direction along the centerline of Reedy Creek to its intersection with the centerline of the James River; thence in an eastward direction along the centerline of the James River to its intersection with the northbound lane of the Robert E. Lee Bridge, the point of beginning.

(Code 1993, § 9-78; Code 2004, § 30-117; Code 2015, § 9-95; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-100. Precinct 509.

Election Precinct 509 shall be described as follows:

Beginning at the intersection of Forest Hill Avenue and Dundee Avenue; thence in a westward direction along the centerline of Forest Hill Avenue to its intersection with the centerline of West Roanoke Street; thence in a southward direction along the centerline of West Roanoke Street to its intersection with the centerline of Dunston Avenue; thence in a westward direction along the centerline of Dunston Avenue to its intersection with the centerline of Reedy Creek; thence in a westward direction along the centerline of Reedy Creek to its intersection with the centerline of West 44th Street; thence in a northward direction along the centerline of West 44th Street to its intersection with the centerline of Reedy Avenue; thence in a westward direction along the centerline of Reedy Avenue to its intersection with the centerline of West 45th Street; thence in a southward

direction along the centerline of West 45th Street and West 45th Street extended to its intersection with the centerline of Bassett Avenue; thence in a west direction along the centerline of Bassett Avenue to its intersection with the centerline of Westover Hills Boulevard; thence in a southward direction along the centerline of Westover Hills Boulevard to its intersection with the centerline of the CSX Railroad right-of-way; thence in a southward direction along the centerline of the CSX Railroad right-of-way to its intersection with the centerline of Hull Street; thence in a northeastward direction along the centerline of Hull Street to its intersection with the centerline of East 36th Street; thence in a northwestward direction along the centerline of East 36th Street to its intersection with the centerline of Midlothian Turnpike; thence in an eastward direction along the centerline of Midlothian Turnpike to its intersection with the centerline of Dundee Avenue; thence in a northward direction along the centerline of Dundee Avenue to its intersection with the centerline of Forest Hill Avenue, the point of beginning.

(Code 1993, § 9-79; Code 2004, § 30-118; Code 2015, § 9-96)

Sec. 9-101. Precinct 510.

Election Precinct 510 shall be described as follows:

Beginning at the intersection of Semmes Avenue and Cowardin Avenue; thence in a southwestward direction along the centerline of Semmes Avenue to its intersection with the centerline of Dundee Avenue; thence in a southward direction along the centerline of Dundee Avenue to its intersection with the centerline of Midlothian Turnpike; thence in a westward direction along the centerline of Midlothian Turnpike to its intersection with the centerline of East 36th Street; thence in a southward direction along the centerline of the East 36th Street to its intersection with the centerline of Hull Street; thence in a northeastward direction along the centerline of Hull Street to its intersection with the centerline of Cowardin Avenue; thence in a northward direction along the centerline of Cowardin Avenue to its intersection with the centerline of Semmes Avenue, the point of beginning.

(Code 1993, § 9-80; Code 2004, § 30-119; Code 2015, § 9-97)

Sec. 9-102. Precinct 602.

Election Precinct 602 shall be described as follows:

Beginning at the intersection of the centerlines of I-64 and the 1970 corporation line; thence in a southward direction along the 1970 corporation line to its intersection with the centerline of Carroll Street; thence in a westward direction along the centerline of Carroll Street to its intersection with the centerline of Mechanicsville Turnpike; thence in a southward direction along the centerline of Mechanicsville Turnpike to its intersection with the centerline of Mosby Street; thence in a southward direction along the centerline of Mosby Street to its intersection with the centerline of the Leigh Street Viaduct; thence in a westward direction along the centerline of the Leigh Street Viaduct to its intersection with the southbound lane of I-95; thence in a northwestward direction along the southbound lane of I-95 to its intersection with the centerline of I-64; thence in a northeastward direction along the centerline of I-64 to its intersection with the centerline of North 7th Street; thence in a northward direction along the centerline of North 7th Street to its intersection with the centerline of Hospital Street; thence in a westward direction along the centerline of Hospital Street to its intersection with the centerline of I-64; thence in a northward, then eastward direction along the centerline of I-64 to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-81; Code 2004, § 30-120; Code 2015, § 9-98; Ord. No. 2004-206-187, § 2, 7-12-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-103. Precinct 603.

Election Precinct 603 shall be described as follows:

Beginning at the intersection of the centerlines of East Brookland Park Boulevard and Second Avenue; thence in a southward direction along the centerline of Second Avenue to its intersection with the centerline of First Avenue; thence in a southward direction along the centerline of First Avenue to its intersection with the centerline of Matthews Street; thence in a southward direction along the centerline of Matthews Street to its intersection with the centerline of Rowen Avenue; thence in an eastward direction along the centerline of

Rowen Avenue to its intersection with the centerline of North 5th Street; thence in a southward direction along the centerline of North 5th Street to its intersection with the centerline of Valley Road; thence southeastward along the centerline of Valley Road to its intersection with the centerline of I-64; thence in a southward direction along the centerline of I-64 to its intersection with the centerline of Hospital Street; thence in an eastward direction along the centerline of Hospital Street to its intersection with the centerline of North 7th Street; thence in a southward direction along the centerline of North 7th Street to its intersection with the southbound lane of I-95; thence in a westward direction along the southbound lane of I-95 to its intersection with the centerline of the westbound lane of I-64; thence in an eastward direction along the centerline of the westbound lane of I-64 to its intersection with North Second Street; thence in a northward direction along the centerline of North Second Street to its intersection with the centerline of the CSX Railroad; thence in a westward direction along the centerline of the CSX Railroad to its intersection with the centerline of St. James Street; thence in a northward direction along the centerline of St. James Street to its intersection with the centerline of West Fells Street; thence in a westward direction along the centerline of West Fells Street to its intersection with the centerline of Rose Avenue; thence in a northward direction along the centerline of Rose Avenue to its intersection with the centerline of Yancey Street; thence in a westward direction along the centerline of Yancey Street to its intersection with the centerline of Miller Avenue; thence in a westward direction along the centerline of Miller Avenue to its intersection with the centerline of Overbrook Road; thence in an eastward direction along the centerline of Overbrook Road to its intersection with the centerline of Fendall Avenue; thence in a northward direction along the centerline of Fendall Avenue to its intersection with the centerline of West Hooper Street; thence in an eastward direction along the centerline of West Hooper Street to the point at which it becomes East Hooper Street; thence in an eastward direction along the centerline of East Hooper Street to its intersection with the census block boundary; thence in a southward direction along the census block boundary to its intersection with the centerline of East Norwood Avenue; thence in a westward direction along the centerline of East Norwood Avenue to its intersection with the centerline of Lamb Avenue; thence in a southward direction along the centerline of Lamb Avenue to its intersection with the centerline of East Lancaster Road; thence in an eastward direction along the centerline of East Lancaster Road and East Lancaster Road extended to its intersection with the centerline of Cannons Branch; thence in a northward direction along the centerline of Cannons Branch to its intersection with the centerline of the Ravine; thence in an eastward direction along the centerline of the Ravine to its intersection with the centerline of the Richmond-Henrico Turnpike; thence in a northward direction along the centerline of the Richmond-Henrico Turnpike to its intersection with the centerline of East Brookland Park Boulevard; thence in an eastward direction along the centerline of East Brookland Park Boulevard to its intersection with the centerline of Second Avenue, the point of beginning.

(Code 1993, § 9-82; Code 2004, § 30-121; Code 2015, § 9-99; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-104. Precinct 604.

Election Precinct 604 shall be described as follows:

Beginning at the intersection of the centerlines of Dill Avenue and the 1970 corporation line; thence in a generally southward direction along the 1970 corporation line to its intersection with the centerline of I-64; thence in a westward and southward direction along the centerline of I-64 to its intersection with the centerline of Valley Road; thence in a westward direction along the centerline of Valley Road to its intersection with the centerline of North 5th Street; thence in a northward direction along the centerline of North 5th Street to its intersection with the centerline of Rowen Avenue; thence in westward direction along the centerline of Rowen Avenue to its intersection with the centerline of Matthews Street; thence in a northward direction along the centerline of Matthews Street to its intersection with the centerline of First Avenue; thence in a northward direction along the centerline of First Avenue to its intersection with the centerline of Second Avenue; thence in a northward direction along the centerline of Second Avenue to its intersection with the centerline of East Brookland Park Boulevard; thence in an eastward direction along the centerline of East Brookland Park Boulevard to its intersection with the centerline of Third Avenue; thence in a northward direction along the centerline of Third Avenue to its intersection with the centerline of Front Street; thence in an eastward direction along the centerline of Front Street to its intersection with the centerline of Dill Avenue; thence in a northward direction along the centerline of Dill Avenue to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-83; Code 2004, § 30-122; Code 2015, § 9-100; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-105. Precinct 606.

Election Precinct 606 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Meadowbridge Road; thence in a southward direction along the centerline of Meadowbridge Road to its intersection with the centerline of Bancroft Avenue; thence in a westward direction along the centerline of Bancroft Avenue to its intersection with the centerline of the Richmond-Henrico Turnpike; thence in a southward direction along the centerline of the Richmond-Henrico Turnpike to its intersection with the centerline of East Brookland Park Boulevard; thence in an eastward direction along the centerline of East Brookland Park Boulevard to its intersection with the centerline of Third Avenue; thence in a northward direction along the centerline of Third Avenue to its intersection with the centerline of Front Street; thence in an eastward direction along the centerline of Front Street to its intersection with the centerline of Dill Avenue; thence in a northeastward direction along the centerline of Dill Avenue to its intersection with the centerline of the 1970 corporation line; thence in a generally northward direction along the centerline of the 1970 corporation line to its intersection with the centerline of Meadowbridge Road, the point of beginning.

(Code 1993, § 9-84; Code 2004, § 30-123; Code 2015, § 9-101; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-106. Precinct 607.

Election Precinct 607 shall be described as follows:

Beginning at the intersection of North 1st Street and I-64 and I-95; thence in a southward direction along the centerline of North 1st Street to its intersection with the centerline of Duval Street; thence in an eastward direction along the centerline of Duval Street to its intersection with the centerline of North Second Street; thence in a southward direction along the centerline of North Second Street to its intersection with the eastbound lane of East Broad Street; thence in a westward direction along the eastbound lane of East Broad Street to the point at which it becomes West Broad Street; thence in a westward direction along the eastbound lane of West Broad Street to its intersection with the centerline of North Adams Street; thence in a southward direction along the centerline of North Adams Street to the point at which it becomes South Adams Street; thence in a southward direction along the centerline of South Adams Street to its intersection with the centerline of West Canal Street; thence in a westward direction along the centerline of West Canal Street to its intersection with the northbound lane of South Belvidere Street; thence in a southward direction along the northbound lane of South Belvidere Street to its intersection with the Downtown Expressway; thence in an eastward direction along the centerline of the Downtown Expressway to its intersection with the centerline of South 2nd Street; thence in a southward direction along the centerline of South 2nd Street to its intersection with the northbound lane of South Belvidere Street; thence in a southward direction along the centerline of the northbound lane of South Belvidere Street to its intersection with the centerline of the James River; thence in an eastward direction along the centerline of the James River to its intersection with the centerline of I-95; thence in a northward direction along the centerline of I-95 to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the north shore of the James River; thence in a westward direction along the north shore of the James River to its intersection with the centerline of South 14th Street; thence in a northward direction along the centerline of North 14th Street to its intersection with the centerline of East Main Street; thence in an eastward direction along the centerline of East Main Street to its intersection with the northbound lane of North 14th Street; thence in a northward direction along the northbound lane of North 14th Street to its intersection with the centerline of Bank Street; thence in a westward direction along the centerline of Bank Street to its intersection with the centerline of North 14th Street; thence in a northward direction along the centerline of North 14th Street to its intersection with the eastbound lane of East Broad Street; thence in an eastward direction along the eastbound lane of East Broad Street to its intersection with the southbound lane of I-95; thence in a northwestward direction along the southbound lane of I-95 to its intersection with the centerline of North 1st Street, the point of beginning.

(Code 1993, § 9-85; Code 2004, § 30-124; Code 2015, § 9-102; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-107. Precinct 609.

Election Precinct 609 shall be described as follows:

Beginning at the intersection of the centerlines of I-95 and the James River; thence in a generally eastward and southward direction along the north shore of the James River to its intersection with Goodes Creek extended; thence in a westward direction along Goodes Creek extended to its intersection with Goodes Creek; thence in a westward direction along Goodes Creek to its intersection with the centerline of Commerce Road; thence in a northward direction along the centerline of Commerce Road to its intersection with the centerline of East 9th Street; thence in a northwestward direction along the centerline of East 9th Street to its intersection with the centerline of Maury Street; thence in a southwestward direction along the centerline of Maury Street to its intersection with the centerline of East 10th Street; thence in a northwestward direction along the centerline of East 10th Street to its intersection with the centerline of Stockton Street; thence in a southwestward direction along the centerline of Stockton Street to its intersection with the centerline of East 15th Street; thence in a northwestward direction along the centerline of East 15th Street to its intersection with the centerline of Hull Street; thence in a southwestward direction along the centerline of Hull Street to its intersection with the centerline of Cowardin Avenue; thence in a generally northward direction along the centerline of Cowardin Avenue to its intersection with the northbound lane of the Robert E. Lee Bridge; thence in a northward direction along the northbound lane of the Robert E. Lee Bridge to its intersection with the centerline of the James River; thence in an eastward direction along the James River to its intersection with the centerline of I-95, the point of beginning.

(Code 1993, § 9-87; Code 2004, § 30-126; Code 2015, § 9-103; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-108. Precinct 610.

Election Precinct 610 shall be described as follows:

Beginning at the intersection of Harwood Street and Jefferson Davis Highway; thence in a northward direction along the centerline of Jefferson Davis Highway to its intersection with the centerline of Royall Avenue; thence in an eastward direction along the centerline of Royall Avenue to its intersection with the centerline of Krouse Street; thence in a southward direction along the centerline of Krouse Street to its intersection with Warwick Avenue; thence in a westward direction along the centerline of Warwick Avenue to its intersection with the centerline of Lynhaven Avenue; thence in a southward direction along the centerline of Lynhaven Avenue to its intersection with the centerline of Bellemeade Road; thence in an eastward direction along the centerline of Bellemeade Road to its intersection with Commerce Road; thence in a northward direction along the centerline of Commerce Road to its intersection with the centerline of Dinwiddie Avenue; thence in a southwestward direction along the centerline of Dinwiddie Avenue to its intersection with the centerline of East 15th Street; thence in a southeastward direction along the centerline of East 15th Street to its intersection with the centerline of Ingram Avenue; thence in a southwestward direction along the centerline of Ingram Avenue to its intersection with the centerline of East 18th Street; thence in a southeastward direction along the centerline of East 18th Street to its intersection with the centerline of Bruce Street; thence in an eastward direction along the centerline of Bruce Street to its intersection with the centerline of Lone Street; thence in a southward direction along the centerline of Lone Street to its intersection with the centerline of Harwood Street; thence in a westward direction along the centerline of Harwood Street to its intersection with the centerline of Jefferson Davis Highway, the point of beginning.

(Code 1993, § 9-88; Code 2004, § 30-127; Code 2015, § 9-104; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-109. Precinct 701.

Election Precinct 701 shall be described as follows:

Beginning at the intersection of the centerlines of Nine Mile Road and the 1970 corporation line; thence in a southwestward direction along the centerline of Nine Mile Road to its intersection with the centerline of North 28th Street; thence in a northeastward direction along the centerline of North 28th Street to its intersection with the centerline of Y Street; thence in a northwestward direction along the centerline of Y Street to its intersection with the centerline of North 21st Street; thence in a northward direction along the centerline of North 21st Street to its intersection with the centerline of Fairfield Avenue; thence in a westward direction

along the centerline of Fairfield Avenue to its intersection with the centerline of Mechanicsville Turnpike; thence in a northward direction along the centerline of Mechanicsville Turnpike to its intersection with the centerline of Carroll Street; thence in an eastward direction along the centerline of Carroll Street to its intersection with the 1970 corporation line; thence in a generally eastward and southward direction along the 1970 corporation line to its intersection with the centerline of Nine Mile Road, the point of beginning.

(Code 1993, § 9-89; Code 2004, § 30-128; Code 2015, § 9-105)

Sec. 9-110. Precinct 702.

Election Precinct 702 shall be described as follows:

Beginning at the intersection of the centerlines of North 28th Street and Y Street; thence in a southwestward direction along the centerline of North 28th Street to its intersection with the centerline of Nine Mile Road; thence in a westward direction along the centerline of Nine Mile Road to its intersection with the centerline of North 26th Street; thence in a southward direction along the centerline of North 26th Street to its intersection with the centerline of P Street; thence in a westward direction along the centerline of P Street to its intersection with the centerline of Burton Street; thence in a westward direction along the centerline of Burton Street to its intersection with the centerline of North 22nd Street; thence in a northward direction along the centerline of North 22nd Street to its intersection with the centerline of O Street; thence in a westward direction along the centerline of O Street to its intersection with the centerline of Mosby Street; thence in a northward direction along the centerline of Mosby Street to the point at which it becomes Mechanicsville Turnpike; thence in a northward direction along the centerline of Mechanicsville Turnpike to its intersection with the centerline of Fairfield Avenue; thence in an eastward direction along the centerline of Fairfield Avenue to its intersection with the centerline of North 21st Street; thence in a southward direction along the centerline of North 21st Street to its intersection with the centerline of Y Street; thence in a southeastward direction along the centerline of Y Street to its intersection with the centerline of North 28th Street, the point of beginning.

(Code 1993, § 9-90; Code 2004, § 30-129; Code 2015, § 9-106; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-111. Precinct 703.

Election Precinct 703 shall be described as follows:

Beginning at the intersection of the centerlines of Nine Mile Road and the 1970 corporation line; thence in a generally southward direction along the 1970 corporation line to its intersection with the centerline of the Norfolk Southern Railway; thence in a westward direction along the centerline of the Norfolk Southern Railway to its intersection with the centerline of Government Road; thence in a westward direction along the centerline of Government Road to its intersection with the centerline of Crestview Road; thence in a northward direction along the centerline of Crestview Road to its intersection with the centerline of North 39th Street; thence in a northward direction along the centerline of North 39th Street to its intersection with the centerline of N Street; thence in a westward direction along the centerline of N Street to its intersection with the centerline of North 38th Street; thence in a northward direction along the centerline of North 38th Street to its intersection with the centerline of P Street; thence in a northwestward direction along the centerline of P Street to its intersection with the centerline of North 26th Street; thence in a northward direction along the centerline of North 26th Street to its intersection with the centerline of Nine Mile Road; thence in an eastward direction along the centerline of Nine Mile Road to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-91; Code 2004, § 30-130; Code 2015, § 9-107; Ord. No. 2007-178-182, § 2, 7-23-2007; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-112. Precinct 705.

Election Precinct 705 shall be described as follows:

Beginning at the intersection of the centerlines of P Street and North 38th Street; thence in a southward direction along the centerline of North 38th Street to its intersection with the centerline of N Street; thence in an eastward direction along the centerline of N Street to its intersection with the centerline of North 39th Street; thence in a southwestward direction along the centerline of North 39th Street to its intersection with the centerline of Crestview Road; thence in a southward direction along the centerline of Crestview Road to

its intersection with the centerline of Government Road; thence in a westward direction along the centerline of Government Road to its intersection with the centerline of East Grace Street; thence in a westward direction along the centerline of East Grace Street to its intersection with the centerline of North 31st Street; thence in a northeastward direction along the centerline of North 31st Street to its intersection with the centerline of P Street; thence in a southeastward direction along the centerline of P Street to its intersection with the centerline of North 38th Street, the point of beginning.

(Code 1993, § 9-93; Code 2004, § 30-132; Code 2015, § 9-108)

Sec. 9-113. Precinct 706.

Election Precinct 706 shall be described as follows:

Beginning at the intersection of the centerline of the Norfolk Southern Railway with the 1970 corporation line; thence along the 1970 corporation line in a southward and westward direction to its intersection with the north shore of the James River; thence along the north shore of the James River in a northward direction to its intersection with the centerline of South Ash Street extended; thence in a northward direction along the centerline of South Ash Street extended to its intersection with the centerline of Dock Street; thence in a westward direction along the centerline of Dock Street to its intersection with the centerline of Ash Street; thence in a northward direction along the centerline of Ash Street to its intersection with the centerline of East Main Street; thence in a northward direction along the centerline of East Main Street to its intersection with the centerline of Williamsburg Avenue; thence in an eastward direction along the centerline of Williamsburg Avenue to its intersection with the centerline of the Norfolk Southern Railway; thence along the centerline of the Norfolk Southern Railway in an eastward direction to its intersection with the 1970 corporation line, the point of beginning.

(Code 1993, § 9-94; Code 2004, § 30-133; Code 2015, § 9-109; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-114. Precinct 707.

Election Precinct 707 shall be described as follows:

Beginning at the intersection of North 31st Street and P Street; thence in a westward direction along the centerline of P Street to its intersection with the centerline of Burton Street; thence in a southwestward direction along the centerline of Burton Street to its intersection with the centerline of North 22nd Street; thence in a northward direction along the centerline of North 22nd Street to its intersection with the centerline of Q Street; thence in a westward direction along the centerline of Q Street to its intersection with the centerline of Mosby Street; thence in a southward direction along the centerline of Mosby Street to its intersection with the centerline of Cedar Street; thence in a southwestward direction along the centerline of Cedar Street to its intersection with the centerline of North 19th Street; thence in a southward direction along the centerline of North 19th Street to its intersection with the centerline of East Marshall Street; thence in an eastward direction along the centerline of East Marshall Street to its intersection with the centerline of North 25th Street; thence in a southward direction along the centerline of North 25th Street to the point at which it becomes South 25th Street; thence in a southward direction along the centerline of South 25th Street to its intersection with the centerline of East Cary Street; thence in an eastward direction along the centerline of East Cary Street to its intersection with Pear Street; thence in a southward direction along the centerline of Pear Street to its intersection with the Norfolk Southern Railroad; thence in a westward direction along the Norfolk Southern Railroad to its intersection with the north shore of the James River; thence in an eastward direction along the north shore of the James River to its intersection with the centerline of South Ash Street extended; thence in a northward direction along the centerline of South Ash Street extended to its intersection with the centerline of Dock Street; thence in a westward direction along the centerline of Dock Street to its intersection with the centerline of Ash Street; thence in a northward direction along the centerline of Ash Street to its intersection with the centerline of East Main Street; thence in a northward direction along the centerline of East Main Street to its intersection with the centerline of Williamsburg Avenue; thence in an eastward direction along the centerline of Williamsburg Avenue to the centerline of the Norfolk Southern Railway; thence in an eastward direction along the centerline of the Norfolk Southern Railway to its intersection with the centerline of Government Road; thence in a westward direction along the centerline of Government Road to its intersection with the centerline of East Grace Street; thence in a westward direction along the centerline of

East Grace Street to its intersection with the centerline of North 31st Street; thence in a northward direction along the centerline of North 31st Street to its intersection with the centerline of P Street, the point of beginning.

(Code 1993, § 9-95; Code 2004, § 30-134; Code 2015, § 9-110; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-115. Precinct 708.

Election Precinct 708 shall be described as follows:

Beginning at the intersection of the eastbound lane of the Leigh Street Viaduct and the southbound lane of I-95; thence south along the southbound lane of I-95 to the eastbound lane of East Broad Street; thence in a westward direction along the eastbound lane of East Broad Street to its intersection with the southbound lane of North 14th Street; thence in a southward direction along the southbound lane of North 14th Street to its intersection with the centerline of Bank Street; thence in an eastward direction along the centerline of Bank Street to its intersection with the northbound lane of North 14th Street; thence in a southward direction along the northbound lane of North 14th Street to its intersection with the centerline of East Main Street; thence in a westward direction along the centerline of East Main Street to its intersection with the centerline of South 14th Street; thence in a southward direction along the centerline of South 14th Street to its intersection with the north shore of the James River; thence in an eastward direction along the north shore of the James River to its intersection with the CSX Railroad; thence in a southward direction along the CSX Railroad to its intersection with the centerline of the James River; thence in an eastward direction along the centerline of the James River to its intersection with the southbound lane of I-95; thence in a southward direction along the southbound lane of I-95 to its intersection with the centerline of the James River; thence in an eastward direction along the centerline of the James River to its intersection with the centerline of the theoretical extension of South Ash Street; thence in a westward direction along the centerline of the theoretical extension of South Ash Street extended to its intersection with the north shore of the James River; thence in a northward direction along the north shore of the James River to its intersection with the Norfolk Southern Railroad spur; thence in an eastward direction along the Norfolk Southern Railroad spur to its intersection with the centerline of Pear Street; thence in a northward direction along the centerline of Pear Street to its intersection with the centerline of East Cary Street; thence in a westward direction along the centerline of East Cary Street to its intersection with the centerline of South 25th Street; thence in a northward direction along the centerline of South 25th Street to the point at which it becomes North 25th Street; thence in a northward direction along the centerline of North 25th Street to its intersection with East Marshall Street; thence in a westward direction along East Marshall Street to its intersection with the centerline of North 19th Street; thence in a northward direction along the centerline of North 19th Street to the point at which it becomes Cedar Street; thence in a northward direction along the centerline of Cedar Street to its intersection with the centerline of Mosby Street; thence in a northward direction along the centerline of Mosby Street to its intersection with the eastbound lane of the Leigh Street Viaduct; thence in a westward direction along the eastbound lane of the Leigh Street Viaduct to its intersection with the southbound lane of I-95, the point of beginning.

(Code 2004, § 30-134.1; Code 2015, § 9-111; Ord. No. 2011-215-2012-4, § 2, 1-9-2012)

Sec. 9-116. Precinct 802.

Election Precinct 802 shall be described as follows:

Beginning at the intersection of Stockton Street and East 10th Street; thence in a southwestward direction along the centerline of Stockton Street to its intersection with the centerline of East 15th Street; thence in a northwestward direction along the centerline of East 15th Street to its intersection with the centerline of Hull Street; thence in a southwestward direction along the centerline of Hull Street to its intersection with the centerline of Jefferson Davis Highway; thence in a southward direction along the centerline of Jefferson Davis Highway to its intersection with the centerline of Harwood Street; thence in an eastward direction along the centerline of Harwood Street to its intersection with the centerline of Lone Street; thence in a northward direction along the centerline of Lone Street to its intersection with the centerline of Bruce Street; thence in a westward direction along the centerline of Bruce Street to its intersection with the centerline of East 18th Street; thence in a northwestward direction along the centerline of East 18th Street to its intersection with the centerline of Ingram Street; thence in a northeastward direction along the centerline of Ingram Street to its

intersection with the centerline of East 15th Street; thence in a northwestward direction along the centerline of East 15th Street to its intersection with the centerline of Dinwiddie Avenue; thence in a northeastward direction along the centerline of Dinwiddie Avenue to its intersection with the centerline of Commerce Road; thence in a northwestward direction along the centerline of Commerce Road to its intersection with the centerline of East 9th Street; thence in a northwestward direction along the centerline of East 9th Street to its intersection with the centerline of Maury Street; thence in a southwestward direction along the centerline of Maury Street to its intersection with the centerline of East 10th Street; thence in a northwestward direction along the centerline of East 10th Street to its intersection with the centerline of Stockton Street, the point of beginning.

(Code 1993, § 9-96; Code 2004, § 30-135; Code 2015, § 9-112; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-117. Precinct 806.

Election Precinct 806 shall be described as follows:

Beginning at the intersection of Walmsley Boulevard and the 1970 corporation line; thence in an eastward, then northward direction along the 1970 corporation line to its intersection with Goodes Creek extended; thence in a westward direction along Goodes Creek extended to its intersection with Goodes Creek; thence in a westward direction along Goodes Creek to its intersection with Commerce Road; thence in a northward direction along the centerline of Commerce Road to its intersection with the northbound lane of Bellemeade Road; thence in a westward direction along the northbound lane of Bellemeade Road to its intersection with the centerline of Lynhaven Avenue; thence in a northward direction along the centerline of Lynhaven Avenue to its intersection with the centerline of Warwick Avenue; thence in a eastward direction along the centerline of Warwick Avenue to its intersection with the centerline of Krouse Street; thence in a northward direction along the centerline of Krouse street to its intersection with the centerline of Royall Avenue; thence in a westward direction along the centerline of Royall Avenue to its intersection with the northbound lane of Jefferson Davis Highway; thence along the northbound lane of Jefferson Davis Highway in a southward direction to its intersection with the centerline of Cofer Road; thence in a westward direction along the centerline of Cofer Road to its intersection with the CSX Railroad; thence in a southward direction along the CSX Railroad to its intersection with Broad Rock Creek; thence in a westward direction along the centerline of Broad Rock Creek to its intersection with the centerline of Hopkins Road; thence in a southwestward direction along the centerline of Hopkins Road to its intersection with the centerline of the CSX Railroad; thence in a southeastward direction along the centerline of the CSX Railroad to its intersection with the centerline of Grindall Creek; thence in an eastward direction along the centerline of Grindall Creek to its intersection with the CSX Railroad; thence in a southward direction along the centerline of the CSX Railroad to its intersection with the 1970 corporation line and Walmsley Boulevard, the point of beginning.

(Code 1993, § 9-97; Code 2004, § 30-136; Code 2015, § 9-113; Ord. No. 2004-367-346, § 2, 12-13-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-118. Precinct 810.

Election Precinct 810 shall be described as follows:

Beginning at the intersection of Westover Hills Boulevard and Reedy Creek; thence in a southwestward direction along the centerline of Reedy Creek to its intersection with the centerline of Covington Road; thence in a southward direction along the centerline of Covington Road to its intersection with the centerline of Midlothian Turnpike; thence in a westward direction along the centerline of Midlothian Turnpike to its intersection with the centerline of Giant Drive; thence in a southward direction along the centerline of Giant Drive to its intersection with the centerline of Biggs Road; thence in an eastward direction along the centerline of Biggs Road to its intersection with the centerline of Warwick Village Drive; thence in a southward direction along the centerline of Warwick Village Drive to its intersection with the centerline of Warwick Road; thence in a southeastward direction along the centerline of Warwick Road to its intersection with the centerline of Hull Street Road; thence in a northeastward direction along the centerline of Hull Street Road to its intersection with the centerline of the CSX Railroad; thence in a southeastward direction along the centerline of the CSX Railroad to its intersection with the centerline of Broad Rock Boulevard; thence in a northeastward direction along the centerline of Broad Rock Boulevard to its intersection with the centerline of East Broad Rock Road;

thence along the centerline of East Broad Rock Road to its intersection with the centerline of the spur line of the CSX Railroad; thence along the centerline of the spur line of the CSX Railroad to its intersection with the centerline of Reedy Creek, the point of beginning.

(Code 1993, § 9-99; Code 2004, § 30-138; Code 2015, § 9-114)

Sec. 9-119. Precinct 811.

Election Precinct 811 shall be described as follows:

Beginning at the intersection of East Broad Rock Road and the CSX Railroad; thence in a southeastward direction along the centerline of the CSX Railroad to its intersection with the centerline of Hopkins Road; thence in a northward direction along the centerline of Hopkins Road to its intersection with the centerline of Broad Rock Creek; thence in an eastward direction along the centerline of Broad Rock Creek to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline of Cofer Road; thence in an eastward direction along the centerline of Cofer Road to its intersection with the northbound lane of Jefferson Davis Highway; thence in a northward direction along the northbound lane of Jefferson Davis Highway to its intersection with the centerline of Hull Street; thence in a southwestward direction along the centerline of Hull Street to its intersection with the centerline of the CSX Railroad spur right-of-way; thence in a southeastward direction along the centerline of the CSX Railroad spur right-of-way to its intersection with the centerline of East Broad Rock Road; thence in a southwestward direction along the centerline of East Broad Rock Road and Broad Rock Boulevard to its intersection with the centerline of the CSX Railroad, the point of beginning.

(Code 1993, § 9-100; Code 2004, § 30-139; Code 2015, § 9-115; Ord. No. 2004-367-346, § 2, 12-13-2004; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-120. Precinct 812.

Election Precinct 812 shall be described as follows:

Beginning at the intersection of Walmsley Boulevard and the 1970 corporation line; thence in an eastward direction along the centerline of Walmsley Boulevard to its intersection with the centerline of Broad Rock Boulevard; thence in a northward direction along the centerline of Broad Rock Boulevard to its intersection with the centerline of Grindall Creek; thence in an eastward direction along the centerline of Grindall Creek to its intersection with the centerline of the CSX Railroad; thence in a southward direction along the centerline of the CSX Railroad to its intersection with the centerline of the 1970 corporation line; thence in a generally westward direction along the centerline of the 1970 corporation line to its intersection with the centerline of Walmsley Boulevard, the point of beginning.

(Code 1993, § 9-101; Code 2004, § 30-140; Code 2015, § 9-116; Ord. No. 2004-367-346, § 2, 12-13-2004)

Sec. 9-121. Precinct 814.

Election Precinct 814 shall be described as follows:

Beginning at the intersection of Broad Rock Boulevard and the CSX Railroad; thence in a southwestward direction along the centerline of Broad Rock Boulevard to its intersection with the centerline of Cooks Road; thence in a northwestward direction along the centerline of Cooks Road to its intersection with the centerline of Cullen Road; thence in a southwestward direction along the centerline of Cullen Road to its intersection with the centerline of Lovells Road; thence in a northwestward direction along the centerline of Lovells Road to its intersection with the centerline of Allwood Avenue; thence in a westward direction along the centerline of Allwood Avenue to its intersection with the centerline of Warwick Road; thence in a southward direction along the centerline of Warwick Road to its intersection with the centerline of the western boundary of census block 4010 which lies along the former roadbed of Warwick Road; thence in a southward direction along the western boundary of census block 4010 which lies along the former roadbed of Warwick Road to its intersection with the centerline of Broad Rock Boulevard; thence in a southward direction along the centerline of Broad Rock Boulevard to its intersection with the centerline of Grindall Creek; thence in a southeastward direction along the centerline of Grindall Creek to its intersection with the centerline of the CSX Railroad; thence in a northward direction along the centerline of the CSX Railroad to its intersection with the centerline

of Broad Rock Boulevard, the point of beginning.

(Code 1993, § 9-102.1; Code 2004, § 30-142; Code 2015, § 9-117)

Sec. 9-122. Precinct 902.

Election Precinct 902 shall be described as follows:

Beginning at the intersection of Hull Street Road and the CSX Railroad; thence in a southwestward direction along the centerline of Hull Street Road to its intersection with the centerline of Old Warwick Road; thence in a southward direction along the centerline of Old Warwick Road to its intersection with the centerline of Warwick Road; thence in a southward direction along the centerline of Warwick Road to its intersection with Allwood Avenue; thence in an eastward direction along the centerline of Allwood Avenue to its intersection with the centerline of Lovells Road; thence in a southward direction along the centerline of Lovells Road to its intersection with the centerline of Cullen Road; thence in a northeastward direction along the centerline of Cullen Road to its intersection with the centerline of Cooks Road; thence in a southward direction along the centerline of Cooks Road to its intersection with the centerline of Broad Rock Boulevard; thence in a northeastward direction along the centerline of Broad Rock Boulevard to its intersection with the centerline of the CSX Railroad; thence in a northwestward direction along the centerline of the CSX Railroad to its intersection with the centerline of Hull Street Road, the point of beginning.

(Code 1993, § 9-103; Code 2004, § 30-143; Code 2015, § 9-118)

Sec. 9-123. Precinct 903.

Election Precinct 903 shall be described as follows:

Beginning at the intersection of the centerline of Powell Road with the centerline of Old Warwick Road; thence along the centerline of Old Warwick Road in a southward direction to its intersection with the western boundary of the census block which lies along the former roadbed of Warwick Road; thence in a southward direction along the western boundary of the census block which lies along the former roadbed of Warwick Road to its intersection with the northbound lane of Broad Rock Boulevard; thence along the northbound lane of Broad Rock Boulevard in a southward direction to its intersection with the centerline of Walmsley Boulevard; thence along the centerline of Walmsley Boulevard in a westward direction to its intersection with the 1970 corporation line; thence along the 1970 corporation line in a northward direction to its intersection with the centerline of Hey Road; thence in a northward direction along the centerline of Hey Road to its intersection with the eastbound lane of Hull Street Road; thence in an eastward direction along the eastbound lane of Hull Street Road to its intersection with the centerline of Orcutt Lane; thence in a southward direction along the centerline of Orcutt Lane to its intersection with the centerline of Kimrod Road; thence in an eastward direction along the centerline of Kimrod Road to its intersection with the centerline of Bryce Lane; thence in an eastward direction along the centerline of Bryce Lane to its intersection with the centerline of Clearfield Street; thence in a northward direction along the centerline of Clearfield Street to its intersection with the centerline of Linwood Avenue; thence in a southeast direction along the centerline of Linwood Avenue to its intersection with the centerline of Powell Road; thence in a northeast direction along the centerline of Powell Road to its intersection with the centerline of Old Warwick Road, the point of beginning.

(Code 1993, § 9-104; Code 2004, § 30-144; Code 2015, § 9-119; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-124. Precinct 908.

Election Precinct 908 shall be described as follows:

Beginning at the intersection of Primrose Place service access road and the northbound lane of German School Road; thence in a southward direction along the northbound lane of German School Road to its intersection with the centerline of Deter Road; thence in a southwestward direction along the centerline of Deter Road to its intersection with the centerline of Vevadel Drive; thence in a southward direction along the centerline of Vevadel Drive to the point at which it becomes Beaufont Hills Drive; thence in a southward direction along the centerline of Beaufont Hills Drive to its intersection with the centerline of Midlothian Turnpike; thence in a westward direction along the centerline of Midlothian Turnpike to its intersection with the 1970 corporation line; thence in a northward direction along the 1970 corporation line to its intersection with the eastbound lane

of Jahnke Road; thence in an eastward direction along the eastbound lane of Jahnke Road to its intersection with the southbound lane of St. John's Wood Drive; thence in a southward direction along the southbound lane of St. John's Wood Drive to its intersection with the centerline of St. Ann's Drive; thence in a westward direction along the centerline of St. Ann's Drive to its intersection with the centerline of Lisson Crescent; thence in a westward, then southward, then eastward direction along the centerline of Lisson Crescent to its intersection with the centerline of St. John's Wood Drive; thence in an northward direction along the centerline of St. John's Wood Drive to its intersection with Finchley Place; thence in an eastward direction along Finchely Place to the point at which it becomes Primrose Place; thence in an eastward direction along the centerline of Primrose Place to its intersection with the centerline of Primrose Place service access road; thence in a northward direction along the centerline of Primrose Place service access road to its intersection with the northbound lane of German School Road, the point of beginning.

(Code 1993, § 9-106; Code 2004, § 30-145; Code 2015, § 9-120; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-125. Precinct 909.

Election Precinct 909 shall be described as follows:

Beginning at the intersection of German School Road and Glenway Drive; thence in a northeastward direction along the centerline of Glenway Drive to its intersection with the centerline of Blandy Avenue; thence in a southward direction along the centerline of Blandy Avenue to its intersection with the centerline of Wainwright Drive; thence in a southeastward direction along the centerline of Wainwright Drive to its intersection with the centerline of Bradley Lane; thence in a northward direction along the centerline of Bradley Lane to its intersection with the centerline of Spruance Road; thence in a northward direction along the centerline of Spruance Road to its intersection with the centerline of Jahnke Road; thence in an eastward direction along the centerline of Jahnke Road to its intersection with the centerline of Byswick Lane; thence in a southward direction along the centerline of Byswick Lane to its intersection with the centerline of Reedy Avenue; thence in an eastward direction along the centerline of Reedy Avenue to its intersection with the centerline of Boroughbridge Road; thence in a southward direction along the centerline of Boroughbridge Road to its intersection with the centerline of Bassett Avenue; thence in an eastward direction along the centerline of Bassett Avenue to its intersection with the southbound lane of Westover Hills Boulevard; thence in a southward direction along the southbound lane of Westover Hills Boulevard to its intersection with the centerline of Reedy Creek; thence in a southwestward direction along the centerline of Reedy Creek to its intersection with the centerline of Covington Road; thence in a southward direction along the centerline of Covington Road to its intersection with the centerline of Midlothian Turnpike; thence in a westward direction along the centerline of Midlothian Turnpike to its intersection with the centerline of Beaufont Hills Drive; thence in a northward direction along the centerline of Beaufont Hills Drive to the point at which it becomes Vevadel Drive; thence in a northwestward direction along the centerline of Vevadel Drive to its intersection with the centerline of Deter Road; thence in a northeastward direction along the centerline of Deter Road to its intersection with the centerline of German School Road; thence in a generally northward direction along the centerline of German School Road to its intersection with the centerline of Glenway Drive, the point of beginning.

(Code 1993, § 9-107; Code 2004, § 30-146; Code 2015, § 9-121; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-126. Precinct 910.

Election Precinct 910 shall be described as follows:

Beginning at the intersection of the 1970 corporation line and Pocosham Creek; thence in an eastward direction along Pocosham Creek to its intersection with the centerline of Whitehead Road; thence in a northward direction along the centerline of Whitehead Road to its intersection with the centerline of Worthington Road; thence in an eastward direction along the centerline of Worthington Road to its intersection with the centerline of Judson Road; thence in a northward direction along the centerline of Judson Road to its intersection with the centerline of Swanson Road; thence in an eastward direction along the centerline of Swanson Road to its intersection with the centerline of Kingsway Road; thence in a northward direction along the centerline of Kingsway Road to its intersection with the eastbound lane of Warwick Road; thence in an eastward direction along the eastbound lane of Warwick Road to its intersection with the census block boundary leading to Old

Warwick Road; thence in a southward direction along the census block boundary leading to Old Warwick Road to the point at which it becomes Old Warwick Road; thence in a southward direction along the centerline of Old Warwick Road to its intersection with the centerline of Powell Road; thence in a westward direction along the centerline of Powell Road to its intersection with the centerline of Linwood Avenue; thence in a westward direction along the centerline of Linwood Avenue to its intersection with the centerline of Clearfield Street; thence in a westward direction along the centerline of Clearfield Street to its intersection with the centerline of Bryce Lane; thence in a westward direction along the centerline of Bryce Lane to its intersection with the centerline of Kimrod Road; thence in a westward direction along the centerline of Kimrod Road to its intersection of the centerline of Orcutt Lane; thence in a westward direction along the centerline of Orcutt Lane to its intersection with the centerline of Hull Street Road; thence in a westward direction along the centerline of Hull Street Road to its intersection with the centerline of Hey Road; thence in a southward direction along the centerline of Hey Road to its intersection with the centerline of Walmsley Boulevard; thence in a westward direction along the centerline of Walmsley Boulevard to its intersection with the 1970 corporation line; thence in a northward direction along the 1970 corporation line to its intersection with Pocosham Creek, the point of beginning.

(Code 1993, § 9-108; Code 2004, § 30-147; Code 2015, § 9-122; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-127. Precinct 911.

Election Precinct 911 shall be described as follows:

Beginning at the intersection of the centerline of Midlothian Turnpike and the 1970 corporation line; thence in an eastward direction along the centerline of Midlothian Turnpike to its intersection with Giant Drive; thence in a southward direction along the centerline of Giant Drive to its intersection with the centerline of Biggs Road; thence in an eastward direction along the centerline of Biggs Road to its intersection with the centerline of Warwick Village Drive; thence in a southward direction along the centerline of Warwick Village Drive to its intersection with the eastbound lane of Warwick Road; thence in an eastward direction along the eastbound lane of Warwick Road to its intersection with the centerline of Kingsway Road; thence in a southward direction along the centerline of Kingsway Road to its intersection with the centerline of Swanson Road; thence in a westward direction along the centerline of Swanson Road to its intersection with the centerline of Judson Road; thence in a southward direction along the centerline of Judson Road to its intersection with the centerline of Worthington Road; thence in a westward direction along the centerline of Worthington Road to its intersection with the centerline of Whitehead Road; thence in a southward direction along the centerline of Whitehead Road to its intersection with Pocosham Creek; thence in a westward direction along Pocosham Creek to its intersection with the 1970 corporation line; thence in a northward direction along the 1970 corporation line to its intersection with the centerline of Midlothian Turnpike, the point of beginning.

(Code 1993, § 9-108.1; Code 2004, § 30-148; Code 2015, § 9-123; Ord. No. 2011-215-2012-4, § 3, 1-9-2012)

Sec. 9-128. District precinct assignments.

For the purpose of the election of persons to the City Council and the School Board, the precincts shall be assigned to districts as follows:

(1) Precincts 101 through 115, District 1.

(2) Precincts 203 through 215, District 2.

(3) Precincts 301 through 310, District 3.

(4) Precincts 402 through 415, District 4.

(5) Precincts 501 through 510, District 5.

(6) Precincts 602 through 610, District 6.

(7) Precincts 701 through 708, District 7.

(8) Precincts 802 through 814, District 8.

(9) Precincts 902 through 911, District 9.

(Code 1993, § 9-109; Code 2004, § 30-149; Code 2015, § 9-124; Ord. No. 2011-215-2012-4, § 3, 1-9-2012; Ord. No. 2018-116, § 1, 4-23-2018; Ord. No. 2019-009, § 1, 1-28-2019; Ord. No. 2019-010, § 1, 1-28-2019)

Chapter 10

EMERGENCY SERVICES*

***Cross reference—**Department of Police, § 2-270 et seq.; Department of Fire and Emergency Services, § 2-372 et seq.; Department of Emergency Communications, § 2-728 et seq.; fire prevention and protection, Ch. 13.

State law reference—Emergency management, Code of Virginia, § 44-146.13 et seq.

ARTICLE I. IN GENERAL

Secs. 10-1—10-18. Reserved.

ARTICLE II. AUTOMATIC TELEPHONE DIALER ALARMS*

***Charter reference—**Authority of City to provide for preservation of health, safety and welfare of its inhabitants, § 2.04.

Cross reference—Fire alarm and fire protection systems, § 13-220 et seq.

State law reference—Private security business, Code of Virginia, § 9.1-138 et seq.; authority to regulate alarm company operators, Code of Virginia, § 15.2-911; false fire alarms, Code of Virginia, § 18.2-212.

Sec. 10-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automatic telephone dialer alarm means any device that, when activated, is programmed to automatically dial the Department of Police, the Department of Fire and Emergency Services or the Department of Emergency Communications via commercial telephone lines.

(Code 1993, § 10-16; Code 2004, § 34-31; Code 2015, § 10-19; Ord. No. 2014-59-97, § 3, 5-27-2014)

Cross reference—Definitions generally, § 1-2.

Sec. 10-20. Location of devices and other information required.

Any person making use of an automatic telephone dialer alarm programmed to automatically dial the Department of Police, the Department of Fire and Emergency Services, the Department of Emergency Communications or any or all of such departments shall furnish to the Department of Emergency Communications a memorandum in writing detailing the location of any such device so used and shall furnish the Department of Emergency Communications any additional information relating to the use of such automatic telephone dialer alarm as may be required by this article or by any regulation which might be promulgated by the Department of Emergency Communications regarding the use of such devices.

(Code 1993, § 10-17; Code 2004, § 34-32; Code 2015, § 10-20; Ord. No. 2014-59-97, § 3, 5-27-2014)

Sec. 10-21. Standards for installation and use.

Each automatic telephone dialer alarm shall:

(1) Have the seal of approval of Underwriters' Laboratories, Incorporated, Factory Mutual Laboratories or other nationally recognized testing laboratory.

(2) Be installed in such a manner that it will be protected from accidental triggering.

(3) Have sensing devices and electrical wiring installed in accordance with existing City codes and regulations, if applicable.

(4) If programmed for fire or smoke protection, be inspected and approved by the Department of Fire and Emergency Services.

(5) Broadcast and repeat once a message containing as a minimum the following information:

a. An announcement that an emergency recorded message will follow.

b. The specific type of emergency condition (i.e., holdup, burglary, fire).

c. Street address.

d. Type or name of premises (i.e., private residence, grocery store, etc.).

(6) Utilize a standardized message format to call the Department of Police, the Department of Fire and Emergency Services or the Department of Emergency Communications.

a. No such device shall be programmed to dial any of such departments more than once for each incident.

b. No message shall exceed 30 seconds' duration.

(7) Have the message content, format and voice quality approved by the Department of Emergency Communications.

(8) Dial a telephone number designated by the Department of Emergency Communications, for the receipt of messages from automatic telephone dialer alarms.

(Code 1993, § 10-18; Code 2004, § 34-33; Code 2015, § 10-21; Ord. No. 2014-59-97, § 3, 5-27-2014)

Sec. 10-22. Violations; penalties.

Any person who sets off any automatic telephone dialing alarm unnecessarily or who uses such automatic telephone dialing alarm for any purpose other than that for which the alarm device is intended and by such action requests and calls for an emergency response by the Department of Police or by the Department of Fire and Emergency Services, either or both, shall, upon conviction, be guilty of a Class 1 misdemeanor.

(Code 1993, § 10-19; Code 2004, § 34-34; Code 2015, § 10-22)

Secs. 10-23—10-47. Reserved.

ARTICLE III. BURGLAR ALARMS*

***Cross reference—**Businesses and business regulations, Ch. 6; fire alarm and fire protection systems, § 13-220 et seq.

State law reference—Authority to regulate alarm systems, Code of Virginia, § 15.2-911; false fire alarms, Code of Virginia, § 18.2-212.

Sec. 10-48. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm administrator means the person or persons designated by the Chief of Police to administer, control and review false alarm reduction efforts and to administer the provisions of this article.

Alarm company means and includes any business operated for profit, engaged in the installation, maintenance, alteration, monitoring or servicing of alarm systems or which coordinates a response to such alarm systems.

Alarm permit means a permit issued by the City allowing the operation of an alarm system within the City.

Alarm signal means a detectable signal, either audible or visual, generated by an alarm system, to which the Department of Police is requested to respond.

Alarm system means an assembly of equipment or a device installed in or for commercial or residential premises which transmits a signal, visibly, audibly, electronically, mechanically or otherwise, to indicate the presence of a hazard requiring urgent attention and to which the Department of Police is requested to respond. the term "alarm system" does not include motor vehicle or boat alarms, domestic violence alarms, or alarms designed to elicit a medical response.

Alarm user means any person, corporation, partnership, proprietorship, or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

Alarm user awareness class means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.

Business day means any weekday except Saturday, Sunday or a holiday recognized by the City.

Cancellation means the process where a response is terminated when the alarm company (designated by the alarm user) notifies the Department of Emergency Communications that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request.

False alarm means any alarm signal communicated to the Department of Emergency Communications which is not in response to an actual or threatened hazard. False alarms include negligently or accidentally activated signals; signals which are activated as the result of faulty, malfunctioning or improperly installed or maintained equipment; and signals which are purposefully activated to summon police or fire personnel in nonemergency situations. False alarms do not include alarms for which cancellation has occurred prior to the arrival of police at the scene or signals which are activated by unusually severe weather conditions or other causes and are identified and determined by the Chief of Police to be beyond the control of the owner or the user of an alarm system.

Runaway alarm means an alarm system that produces repeated alarm signals that are not caused by separate human action.

SIA Control Panel Standard CP-01 means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms.

Twelve-month calculation period means the 12-month period of time, commencing with the date of permit issuance, or for non-registered alarm systems, the date of the first false alarm response, that shall be used for calculating violations.

Verify means an attempt by the alarm company monitoring the alarm system, or its representative, to contact the alarm user by telephone, whether or not actual contact with a person is made, in order to determine whether an alarm signal is valid before requesting law enforcement dispatch and avoid an unnecessary alarm dispatch request.

(Code 2015, § 10-48; Ord. No. 2016-049, § 2, 5-13-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 10-49. Duties and authority of the alarm administrator.

(a) The alarm administrator shall:

(1) Designate the manner, form and telephone numbers for the communication of alarm dispatch requests; and

(2) Establish a procedure to accept cancellation of alarm dispatch requests.

(b) The alarm administrator shall establish a procedure to record such information on alarm dispatch requests necessary to permit the alarm administrator to maintain records, including, but not limited to, the information listed below:

(1) Identification of the registration number for the alarm site;

(2) Identification of the alarm site;

(3) Date and time the alarm dispatch request was received, including the name and telephone number of the alarm company and the name of any alarm company representative who has made a dispatch request; and

(4) Date and time of the law enforcement officer's arrival at the alarm site.

(c) The alarm administrator shall establish a procedure for the notification to the alarm user of a false alarm. The notice shall include the following information:

(1) The date and time of law enforcement response to the false alarm, whereby officers shall provide immediate notification by posting a written notice on the door of the location;

(2) The identification number of the responding law enforcement officer; and

(3) A statement urging the alarm user to ensure that the alarm system is properly operated, inspected and serviced in order to avoid false alarms and resulting charges and that all users are trained in the operation

of the alarm system.

(d) The alarm administrator may require a conference with an alarm user and the alarm company responsible for the repair or monitoring of the alarm system to review the circumstances of each false alarm.

(e) The alarm administrator may create and implement an alarm user awareness class. The alarm administrator may request the assistance of associations, alarm companies and law enforcement agencies in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and teach alarm users how to avoid generating false alarms. The alarm administrator may grant the option of attending the alarm user awareness class or another approved class in lieu of paying one assessed fine.

(f) The alarm administrator may require an alarm user to remove a holdup alarm that is a single action, non-recessed button if a false holdup alarm has occurred.

(Code 2015, § 10-49; Ord. No. 2016-049, § 2, 5-13-2016)

Sec. 10-50. Duties of alarm companies.

All alarm companies operating within the City shall:

(1) Comply with all licensing, registration, certification, and training requirements established by the Virginia Department of Criminal Justice Services pursuant to Code of Virginia, §§ 9.1-139 and 9.1-141.

(2) Within 90 days after enactment of this article, on all new installations and upgrades:

a. Use only alarm control panels which meet SIA Control Panel Standard CP-01 (for burglar alarm systems). Such control panels must be inscribed with the following statement: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction"; and

b. Ensure that all audible alarms, siren, bells or horns have an automatic cutoff system so that such alarm shall not operate for more than 15 continuous minutes.

(3) Prior to activation of the alarm system, provide instructions explaining the proper operation of the alarm system to the alarm user and false alarm prevention. All training must be documented and available upon request.

(4) Attempt to verify, by calling the alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, at a minimum, that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves. Telephone verification shall not be required in cases of panic, fire, or robbery-in-progress alarms or cases in which a crime in progress has been verified by video or audible means.

(5) Provide the following information when contacting the Department of Emergency Communications to report an activated alarm signal and request a response:

a. The name and Virginia Department of Criminal Justice Services license number of the alarm company reporting the activated alarm, name or employee number of the alarm company employee making the report and a call back number;

b. The alarm user permit number;

c. Location of the activated alarm, including complete business or homeowner's name, street address and telephone number;

d. Type of alarm (such as audible, silent, robbery, hold-up, duress, panic, burglary), and if the alarm system is zoned, the specific location of the alarm activation (such as interior, perimeter, vault, motion detection);

e. The results of the verification procedure set out in subsection (4) of this section;

f. For activations at nonresidential premises, any available information regarding whether the business is open or closed, if security guards or guard dogs are on site and if dangerous or special conditions exist within the location;

g. For activations at residential premises, any available information regarding the presence of pets,

handicapped individuals or unusual conditions; and

h. If the alarm user or such alarm user's representative is responding, the estimated time of arrival to the alarm site.

(6) Not request a police response to an alarm signal if the alarm company has been notified by the Department of Emergency Communications that police response to alarm signals that occur at the premises described on the alarm permit has been discontinued and has not been reinstated:

a. Due to five or more false alarms within a 12-month calculation period;

b. Due to an account being more than 30 days past due;

c. Because the alarm user did not conform their alarm system to the installation standards, if such is required; or

d. Because the alarm user did not comply with the inspection or class requirements.

(7) Cancel any request for police response immediately when the alarm company determines that the alarm signal is a false alarm.

(8) If such alarm company installs, causes to be installed, permits to be installed, alters, maintains, repairs, replaces, services or monitors any alarm system, meet the following requirements:

a. Ensure that an alarm user has obtained an alarm permit for the alarm system from the Department of Emergency Communications before the alarm system is activated or placed into service. The alarm company must provide an alarm permit form to all of its current and future residential and nonresidential alarm users, collect the alarm permit form and permit fee from the alarm user and deliver the completed alarm permit form and permit fee to the Department of Emergency Communications in the required format before the system is activated or placed into service.

b. Provide to the Department of Emergency Communications, when requested to do so, a list which contains the name, address, telephone number and permit number of all of its current alarm users in the City; and, when applicable, the names and contact information of individuals listed for notification purposes when on-site alarm deactivation is required.

(Code 2015, § 10-50; Ord. No. 2016-049, § 2, 5-13-2016)

Sec. 10-51. Duties of alarm users.

Alarm users shall:

(1) Maintain the premises and the alarm system in a manner that will reduce or eliminate false alarms.

(2) Obtain a new permit upon transfer of ownership or possession of the premises served by an alarm system.

(3) For each alarm system which protects real property located within the City and is capable of causing notice of the alarm activation to be given to the Department of Emergency Communications, furnish to the alarm user's alarm company a list of at least two persons, along with their telephone numbers and home addresses, who may be notified for the purpose of deactivating such alarm system within a reasonable time after such alarm may have been activated. The alarm user shall immediately notify the alarm company of any changes in the names, addresses or telephone numbers of the persons to be notified for such deactivation.

(4) If contacted by the Department of Emergency Communications for the purpose of deactivating an alarm system, report to the site of the alarm system within a reasonable time not to exceed one hour and immediately deactivate the alarm system.

(5) Maintain the alarm system in proper working order.

(Code 2015, § 10-51; Ord. No. 2016-049, § 2, 5-13-2016)

Sec. 10-52. Alarm permit required.

(a) *Permit required.* Every alarm user shall complete a form provided by the Department of Emergency Communications and obtain an alarm permit for the alarm system from the Department of Emergency

Communications before the user begins using the system, and shall pay the alarm permit fee established by this ordinance. Each permit form shall be assigned a unique permit number by the Department of Emergency Communications through the alarm administrator. The permit form shall contain the name of two persons who are able to respond to the alarm site within one hour, grant access to the alarm site, and deactivate the alarm system if such becomes necessary.

(b) *Fee.* A fee of $10.00 shall be required for each initial alarm permit application.

(c) *Commencement of 12-month calculation period.* The 12-month calculation period used to calculate violations of Section 10-53 and to calculate the permit renewal date shall commence with the date of permit issuance. An alarm user has the duty to obtain an alarm permit form from the alarm company that is installing or monitoring such user's alarm system or from the Division of Emergency Communications in instances where the alarm system is not monitored by an alarm or monitoring company.

(d) *Annual renewal fee.* An annual renewal fee of $5.00 shall be required from each permit holder at the commencement of each new 12-month calculation period to be calculated in the manner described in subsection (c) of this section.

(e) *Transfer of ownership or possession.* When ownership or possession of the premises at which an alarm system is maintained is transferred, the person obtaining ownership or possession of the property shall complete and submit to the alarm company a form for an alarm permit within 30 days of obtaining such ownership or possession of the property and connecting or continuing alarm services. Alarm permits are not transferable.

(f) *Reporting updated information.* If at any time there is a change in information provided on the permit form, the alarm user shall, in addition to the requirements of Section 10-51, provide the correct information to the Department of Emergency Communications within 30 days of the change.

(g) *Multiple alarms systems.* If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses, a separate alarm permit shall be required for each structure.

(h) *Applicability.* This section shall not apply to the facilities owned by the United States of America, the Commonwealth of Virginia or its political subdivisions, the City, the Greater Richmond Transit Company, or the School Board of the City of Richmond.

(Code 2015, § 10-52; Ord. No. 2016-049, § 2, 5-13-2016)

Sec. 10-53. Charges for false alarms; other enforcement provisions.

(a) *Excessive false alarms.* It is hereby found and determined that three or more false alarms within a calendar year is excessive and constitutes a public nuisance. The Director of Finance shall assess charges for false alarms within a calendar year against an alarm user and the service fees charged shall be as follows:

(1)	First two false alarms, no charge (warnings only)	
(2)	Third false alarm	$50.00
(3)	Fourth false alarm	$75.00
(4)	Fifth false alarm	$100.00
(5)	Sixth false alarm	$125.00
(6)	Seventh false alarm	$175.00
(7)	Eighth false alarm	$250.00
(8)	Ninth false alarm	$350.00
(9)	Tenth false alarm (and in each in excess of ten)	$500.00

(b) *Failure to apply for an alarm permit.* Violation of Section 10-52(a) shall be enforced through the assessment of a charge of $100.00.

(c) *Other charges.* Other violations of Sections 10-50 through 10-52, except for Section 10-52(a) shall be enforced through the assessment of charges of $100.00 for the initial and each subsequent violation.

(d) *Payment of false alarm charges.* False alarm charges shall be paid within 30 days from the date of the invoice.

(e) *Past due accounts.* The Director of Finance shall cause a billing to be sent to each person liable for payment. False alarm charges unpaid within 30 days from the date of the invoice shall be past due and shall be collected by the Director of Finance in a manner prescribed by law for the collection of debts.

(f) *Discontinuance of police response.* Five false alarms within a 12-month calculation period shall result in discontinuance of police response to alarm signals that occur at the premises described in the alarm user's alarm permit. The Director of Finance shall notify the alarm user and the alarm company that the Department of Police will not respond to alarm signals from the premises until police response is reinstated as prescribed by subsection (g) of this section.

(g) *Reinstatement fee.* Whenever police response to alarm signals has been discontinued, the alarm user shall, in addition to payment of all outstanding charges assessed in accordance with this article, obtain a new alarm permit in accordance with subsection (h) of this section and pay a $100.00 fee for reinstatement of police response. The alarm administrator shall notify the alarm user's alarm company of any reinstatement of police response.

(h) *Equitable remedy.* The City may enforce the provisions of this article by applying to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

(i) *Noncriminal violation.* A violation of any of the provisions of this article shall not constitute a felony or misdemeanor punishable pursuant to Code of Virginia, §§ 18.2-10 and 18.2-11.

(j) *Applicability.* This section shall not apply to the facilities owned by the United States of America, the Commonwealth of Virginia or its political subdivisions, the City, the Greater Richmond Transit Company, or the School Board of the City of Richmond.

(Code 2015, § 10-53; Ord. No. 2016-049, §§ 2, 3, 5-13-2016)

Sec. 10-54. Administrative appeal process.

(a) An alarm user who believes that a false alarm charge or other enforcement decision set out in Section 10-53 has been wrongfully assessed against such person may appeal such assessment by submitting a letter to the alarm administrator within ten days of receiving the invoice for the false alarm charge. The letter shall contain the alarm user's name filing the appeal, alarm permit number, complete address and telephone number; the reasons for disputing the false alarm charge or other enforcement decision; and any other written evidence which might justify a change in the assessment. The submission of the letter will toll the 30-day time period for payment of a false alarm charge until a decision has been rendered by the alarm administrator. The alarm administrator shall render a decision or schedule a hearing with the appealing party within ten business days of receipt of the appeal request, unless an extension has been agreed upon by both parties.

(b) If necessary, the alarm administrator may schedule a hearing with the person making the appeal to obtain additional information related to the appeal. At such hearing, there shall be no formal rules of procedure, and the alarm administrator shall not have the power to compel the attendance of witnesses or the production of other evidence.

(c) After obtaining all necessary information, the alarm administrator shall determine, by a preponderance of the evidence, whether the sections of this article have been applied fairly and impartially. In accordance with subsection (d) of this section, the alarm administrator may reduce or waive all or any portion of a false alarm charge and reverse any other enforcement decision under Section 10-53.

(d) The alarm administrator may consider the following factors in reaching a determination on the appropriateness of an assessed false alarm charge or other enforcement decision:

(1) Evidence of attempts by the person against whom the false alarm charge is assessed to eliminate the cause of false alarms such as:

a. Installation of new equipment.

b. Replacement of defective equipment.

c. Inspection and repair of the system by an alarm system technician.

d. Specific formal training of alarm users.

(2) Evidence that the false alarm was caused by unusually severe weather conditions or other causes which are identified and determined by the alarm administrator, after consultation with the Chief of Police, as applicable, to be beyond the control of the owner or the user of the alarm system.

(3) Evidence that the false alarm was caused by the disruption of telephone or electrical circuits beyond the control of the alarm user or the user's monitoring company and the cause of such disruption has been corrected.

(4) Evidence that the alarm system which caused the false alarm has been disconnected and removed from the protected premises.

(5) Evidence that the payment of the assessed false alarm charge will create a financial hardship on the person against whom it is assessed.

(e) Nothing in this section shall be interpreted to require the waiver or rescission of a false alarm charge or the reversal of any other enforcement decision in appeals which meet any or all of the factors in subsection (d) of this section.

(Code 2015, § 10-54; Ord. No. 2016-049, § 2, 5-13-2016)

Sec. 10-55. Governmental immunity.

An alarm permit is neither intended to nor will create a contract, duty or obligation, either expressed or implied, of response by the City. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that a response by the Department of Police may be influenced by factors such as the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

(Code 2015, § 10-55; Ord. No. 2016-049, § 2, 5-13-2016)

Secs. 10-56—10-77. Reserved.

ARTICLE IV. EMERGENCY MEDICAL SERVICES*

***State law reference—**Statewide emergency medical systems and services, Code of Virginia, § 21.1-111.1 et seq.

Sec. 10-78. Operation of vehicles not holding City franchise or permit.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Emergency medical services vehicle means any privately or publicly owned vehicle, vessel or aircraft that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated to provide immediate medical care to or to transport in a reclining position or on a stretcher or gurney persons who are sick, injured, wounded or otherwise incapacitated or helpless. However, the term shall not mean any vehicle used as a taxicab or any vehicle used to transport persons who are permanently disabled but not acutely ill or persons who use a wheelchair.

(b) It shall be unlawful for any person to transport a patient in an emergency medical services vehicle without holding a City franchise or permit. Any volunteer rescue squad in established operation in the City as of January 1, 1990, shall be deemed to have a permit for operation, subject to such public health, safety, and general welfare requirements as the City may impose under this article. This section shall not apply to the following:

(1) Any transport of patients originating outside the City and terminating in the City;

(2) Any volunteer rescue squad established in any county, city or town pursuant to Code of Virginia, § 15.2-955 while making a nonemergency transport from a medical facility located within the City to a location outside of the City;

(3) Any ambulance transport originating within the City and terminating at a location beyond the Richmond-Petersburg Metropolitan Statistical Area;

(4) Any transport that results from the rendering of assistance at the request of the centralized EMS dispatch center in a disaster or major emergency or in response to the request by the EMS dispatch center for mutual aid; and

(5) Any transport of patients who are being returned to the point of origination outside the City, provided that such a return transport occurs within 24 hours of the initial transport into the City. Any ambulance firm that makes such return transports back to the point of origination shall file with the Chief Administrative Officer on a quarterly basis copies of the firm's dispatch records as documentation of such transports. For the purposes of enforcing this subsection only, the City shall have access to the dispatch records of any ambulance firm that makes transports pursuant to this subsection as they relate to such transports.

(c) Any City police officer may issue a warrant, citation or summons charging a person driving an emergency medical services vehicle in the City in violation of this section or, if such person is not known, charging the registered owner of an emergency medical services vehicle used in violation of this section.

(d) In any prosecution charging a violation of this section where the driver is unknown, proof that the emergency medical services vehicle described in the complaint, summons, ticket, citation or warrant transported a person from a location within the corporate City limits, together with proof that the defendant was at the time of transport the registered owner of the vehicle, as required in Code of Virginia, Title 46.2, Ch. 6 (Code of Virginia, § 46.2-600 et seq.), shall constitute a prima facie presumption in evidence that the registered owner was the person who committed the violation.

(e) A violation of this section shall be a Class 1 misdemeanor punishable as provided in Section 1-16. In lieu of the criminal sanctions authorized in this subsection, this section may, at the option of the City, be enforced by equitable relief.

(Code 1993, § 10-58; Code 2004, § 34-101; Code 2015, § 10-78; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 10-79. Awarding of franchises and permits.

It is in the best interest of the City to create and to regulate a unified emergency medical services system. It is the policy of the City to promote the provision of adequate and continuing ambulance service to transport sick or injured persons in the metropolitan area in order to preserve, protect and promote the public health, safety and general welfare of the public residing in this area. In furtherance of this policy, the City may, from time to time, award or revoke by ordinance franchises or permits for the operation of emergency medical service (EMS) vehicles, subject to such public health, safety, and general welfare requirements as it may impose under this article. The holder of a franchise or permit shall be referred to in this article as an "authorized provider." Any franchise or permit, other than any franchise granted to the Richmond Ambulance Authority, shall be for a period of two years; however, an authorized provider may apply for a new franchise or permit to replace an expiring franchise or permit. No franchise or permit may be transferred by any means, direct or indirect, including, without limitation, change of ownership or control, trusteeship, and sale of assets. The award of a franchise or permit may be conditioned upon the attainment of norms for quality of care and response times that the City establishes for its emergency medical services system generally.

(Code 1993, § 10-59; Code 2004, § 34-102; Code 2015, § 10-79; Ord. No. 2020-167, § 1(10-79), 9-14-2020)

Sec. 10-80. Centralized EMS dispatch.

All authorized providers under this article shall be dispatched from the emergency medical services dispatch center designated by the City. No authorized provider shall publish or advertise any telephone number for the purpose of receiving requests for emergency medical services except the emergency number (911) of the emergency medical services dispatch center. All authorized providers shall, at all times, obey the directions of the emergency medical services dispatch center, including, by way of illustration and without limitation, location of units, positioning movements, and run responses. However, neither any authorized provider that is exempted by Section 10-81 from advanced life support equipment and staffing requirements nor any authorized provider of aeromedical services shall in normal operations be subject to the requirements of this section, provided that any such authorized

provider may be required to comply with centralized dispatch instructions in a disaster.

(Code 1993, § 10-62; Code 2004, § 34-103; Code 2015, § 10-80; Ord. No. 2020-167, § 1(10-80), 9-14-2020)

Sec. 10-81. Advanced life support services.

All emergency medical services vehicles of authorized providers shall be equipped and staffed to provide advanced life support services, except the following:

(1) Nonambulance vehicles used solely for wheelchair transport.

(2) Vehicles owned by a partnership of hospitals that was in existence and engaging regularly in emergency medical services transports as of January 1, 1991, while such vehicles are engaging in transports originating from a member hospital.

(Code 1993, § 10-63; Code 2004, § 34-104; Code 2015, § 10-81)

Sec. 10-82. Refusal to transport.

No authorized provider shall fail to respond to a call, to transport, or to render first aid treatment, as may be reasonably necessary, or otherwise refuse or fail to provide services originating within the City because of the patient's inability to pay for such services, because of the patient being located at a particular accessible location within the City or because the provider's emergency medical services vehicles are unavailable without reasonable cause.

(Code 1993, § 10-64; Code 2004, § 34-105; Code 2015, § 10-82)

Sec. 10-83. Suspension of authorization to operate.

The Chief of Fire and Emergency Services may summarily suspend any franchise or permit, except for a franchise or permit granted to the Richmond Ambulance Authority, issued pursuant to this article for any reason involving a danger to public health, safety or welfare, including bankruptcy or insolvency. Such a suspension shall not exceed two weeks in length, and any provider so suspended shall have a right to a hearing before the Chief Administrative Officer, who may (i) reinstate the franchise or permit immediately, (ii) take no action to modify the duration of the suspension pursuant to this section, or (iii) extend the suspension for a period of up to 90 days and impose additional conditions on the authorized provider, either or both. The hearing shall be de novo. It shall comply with due process requirements but shall not be governed by strict rules of evidence or procedure.

(Code 1993, § 10-65; Code 2004, § 34-106; Code 2015, § 10-83; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2020-167, § 1(10-89), 9-14-2020)

Chapter 11

ENVIRONMENT*

***Cross reference—**Rabies control, § 4-337 et seq.; imposition of costs for cleanup of hazardous waste, § 13-24; refusal to abate spill or release of hazardous material, § 13-57; floodplain management, erosion and sediment control, and drainage, Ch. 14; health, Ch. 15; rodent control, § 15-61 et seq.; vessels laden with explosives and other hazardous cargo, § 20-39; solid waste, Ch. 23; throwing or depositing hazardous or injurious materials, § 24-31; utilities, Ch. 28; hauled waste, § 28-799 et seq.

State law reference—Conservation, Code of Virginia, § 10.1-100 et seq.

ARTICLE I. IN GENERAL

Secs. 11-1—11-18. Reserved.

ARTICLE II. SOUND CONTROL*

***Charter reference—**Authority of City to preserve health, safety and comfort of its inhabitants, § 2.04.

Cross reference—Offenses against public peace, § 19-110 et seq.

Sec. 11-19. Title and application of article generally.

This article may be cited as the "Sound Control Ordinance of the City of Richmond." It shall be applicable to the control of sound originating within the corporate limits of the City of Richmond, Virginia.

(Code 2004, § 38-31; Code 2015, § 11-19; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-20. Definitions.

The following terms, when used in this article, shall have the meanings hereinafter ascribed to them, unless otherwise clearly provided or indicated by the context:

ANSI means the American National Standards Institute and any successor or successors.

Daytime extended hours means the period beginning at 11:00 p.m. of each day and ending at 7:00 a.m. of the next day, local time, for which the Chief Administrative Officer or the designee thereof has expressly authorized the relevant activity in writing for reasons related to the health or safety of persons engaged in the activity or for reasons related to Federal or State funding requirements.

Daytime hours means the period each day beginning at 7:00 a.m. and ending at 11:00 p.m., local time.

dBA means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. For purposes of this article, sound pressure levels shall be measured at the place where sound is perceived to constitute a violation of this article and not at the place where it originates.

Decibel means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate curative or corrective action.

Emergency work means any curative or corrective work performed for the purpose of preventing or alleviating the physical trauma or property damage caused by an emergency.

Excessive sound means sound that exceeds 55 dBA during nighttime hours and sound that exceeds 65 dBA during daytime hours when measured inside a structure, or sound that exceeds 65 dBA during nighttime hours and sound that exceeds 75 dBA during daytime hours when measured outside a structure, or both.

GCWR means gross combination weight rating.

Gross combination weight rating means, in cases where trailers and tractors are separable, the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle.

Gross vehicle weight rating means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle.

GVWR means gross vehicle weight rating.

Motor carrier vehicle engaged in interstate commerce means any vehicle for which noise emissions regulations apply pursuant to Section 18 of the Noise Control Act of 1972 (P.L. 92-574), as amended, codified at 42 USC 4917.

Motor vehicle means any device that is self-propelled or that is designed for self-propulsion, in, on or by which any person or property is or may be transported or drawn on a street, except devices moved by human power or used exclusively on stationary rails or tracks.

Motorcycle means any motor vehicle designed to travel on not more than three wheels in contact with the ground and any four-wheeled vehicle weighing less than 500 pounds and equipped with an engine of less than six horsepower, excepting farm tractors.

Multifamily dwelling or mixed use structure means a structure whose principal use is as a two-family dwelling or a multifamily dwelling, and includes any dwelling unit contained within the same building as other permitted principal uses, as those terms are defined by Section 30-1220. It does not include hotels and motels or lodginghouses, as those terms are defined by Section 30-1220.

Nighttime hours means the period beginning at 11:00 p.m. of each day and ending at 7:00 a.m. of the next day, local time.

Residential zone means any location within any area zoned residential or residential-office pursuant to the City's zoning ordinance, and designated as such by the R- or RO- prefix in Chapter 30.

School means a public or private school for elementary, middle or high school grades or an institution of higher education offering postsecondary degrees as a college or university.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The definition of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency-weighting network, as specified in ANSI specifications for sound level meters.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

(Code 2004, § 38-32; Code 2015, § 11-20; Ord. No. 2011-119-140, § 2, 7-25-2011)

Cross reference—Definitions generally, § 1-2.

Sec. 11-21. Declaration of findings and policy.

The City Council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace and safety and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace and safety or degrade the quality of life; and that it is the policy of the City to prevent such excessive sound.

(Code 2004, § 38-33; Code 2015, § 11-21; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-22. Administration and enforcement of article generally.

The sound control program established by this article shall be enforced and administered by the Chief Administrative Officer with the assistance of other City departments as required.

(Code 2004, § 38-34; Code 2015, § 11-22; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-23. Testing of metering devices used to enforce article.

In order to implement and enforce this article effectively, the Chief of Police shall develop and promulgate standards and procedures for testing and validating sound level meters used in the enforcement of this article.

(Code 2004, § 38-35; Code 2015, § 11-23; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-24. Exemptions from article.

No provisions of this article shall apply to:

(1) The emission of sound for the purpose of alerting persons to the existence of an emergency;

(2) The emission of sound in the performance of emergency work;

(3) The emission of sound by an emergency vehicle, as defined by Code of Virginia, § 46.2-920(C), for the purpose of alerting persons to the presence of the emergency vehicle;

(4) Activities authorized by a permit issued pursuant to Section 11-29;

(5) Activities for which the regulation of sound has been preempted by Federal law;

(6) Performances or practices by marching bands, school orchestras or ensembles and similar groups, athletic contests or practices, and other school-funded activities, taking place on the grounds of a school;

(7) Bells and carillons;

(8) Activities related to the construction, repair, maintenance, remodeling, demolition, grading or other improvements of or to real property and any structures thereon during daytime hours or during daytime extended hours;

(9) Gardening, lawn care, tree maintenance or removal, and other landscaping activities during daytime hours;

(10) Refuse collection and sanitation services during daytime hours or during daytime extended hours; and

(11) Sound resulting from lawfully permitted fireworks displays occurring during daytime hours.

(Code 2004, § 38-36; Code 2015, § 11-24; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-25. Violations of article.

(a) A violation of this article shall constitute a Class 4 misdemeanor.

(b) A second violation of this article within any 12-month period shall constitute a Class 3 misdemeanor.

(c) A third violation and every additional violation of this article within any 12-month period shall constitute a Class 2 misdemeanor.

(d) Any person operating or controlling a source of sound shall be guilty of any violation caused by that source. If that person or persons cannot be identified by direct evidence, a court may infer that any owner, tenant, resident or manager physically present on the property where the violation is occurring was operating or controlling the sound source. Such inference may be rebutted by any person so charged.

(e) In addition to and not in lieu of the penalties prescribed in this section, the City may apply to the Circuit Court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

(Code 2004, § 38-37; Code 2015, § 11-25; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-26. Maximum sound levels in residential zones.

Except as provided or permitted by or pursuant to Sections 11-28 and 11-29, no person shall operate a device in such a manner as to create, or otherwise cause any source of sound to create, excessive sound at any point on the land of another person which is located in a residential zone.

(Code 2004, § 38-38; Code 2015, § 11-26; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-27. Maximum sound levels in multifamily dwellings or mixed use structures.

Except as provided or permitted by or pursuant to Sections 11-28 and 11-29, no person shall operate a device in such a manner as to create, or otherwise cause any source of sound to create, excessive sound in the residence of another person which is located in a multifamily dwelling or mixed use structure when measured at a point at least four feet from the wall, ceiling or floor nearest the sound source, regardless of whether the residence is located in a

residential zone.

(Code 2004, § 38-39; Code 2015, § 11-27; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-28. Maximum level of sound emitted by motor vehicles.

(a) No person shall operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the level of sound emitted by the motor vehicle or motorcycle, when measured at a distance of at least 50 feet, exceeds the level set forth in the following table:

	Sound Level in dBA	
Vehicle Class	*Speed Limit 35 MPH or Less*	*Speed Limit over 35 MPH*
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

This subsection shall not apply to any motor carrier vehicle engaged in interstate commerce.

(b) It shall be unlawful for any person to play, use or operate, or permit the playing, use or operation of, any electronic device or horn used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the City, including any public or private street or alley, in such a manner as to be plainly audible to the human ear at a distance of at least 50 feet from the vehicle in which it is located.

(Code 2004, § 38-40; Code 2015, § 11-28; Ord. No. 2011-119-140, § 2, 7-25-2011)

Cross reference—Traffic and vehicles, Ch. 27.

Sec. 11-29. Permit for use of loudspeakers on vehicles or mercantile establishments.

(a) No person shall use any mechanical loudspeaker or amplifier on any motor vehicle or other moving vehicle or on the exterior of any mercantile establishment, for advertising or other purposes, such that it is plainly audible on the property of another person, without first obtaining a permit from the Chief Administrative Officer or the designee thereof. Each application for a permit pursuant to this section shall be accompanied by payment of a fee in the amount of $5.00.

(b) Whenever the Chief Administrative Officer or the designee thereof determines that the use of mechanical loudspeakers or amplifiers on motor vehicles or other moving vehicles or on the exterior of any mercantile establishment, for advertising or other purposes, will not create excessive sound on the property of another person, the Chief Administrative Officer or the designee thereof shall grant a permit.

(c) Nothing contained in this article shall be construed to relieve any person operating or causing a motor vehicle or other moving vehicle on which is situated any mechanical loudspeaker or amplifier to be operated in the City of obtaining the license and paying the license tax prescribed by Section 26-929.

(Code 2004, § 38-41; Code 2015, § 11-29; Ord. No. 2011-119-140, § 2, 7-25-2011; Ord. No. 2012-67-44, §§ 1, 2, 4-23-2012)

Cross reference—Advertising practices, § 6-123 et seq.

Sec. 11-30. Noisy animals and birds.

No person shall allow any animal or bird to create sound such that it is plainly audible at least once a minute for ten consecutive minutes:

(1) Inside the confines of the dwelling unit, house or apartment of another; or

(2) At least 50 feet from the animal or bird.

(Code 2004, § 38-42; Code 2015, § 11-30; Ord. No. 2011-119-140, § 2, 7-25-2011)

Sec. 11-31. Severability.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this article shall not affect the validity of the remaining parts thereto.

(Code 2004, § 38-43; Code 2015, § 11-31; Ord. No. 2011-119-140, § 2, 7-25-2011)

Secs. 11-32—11-50. Reserved.

ARTICLE III. NUISANCES*

***Cross reference—**Animals, Ch. 4; Spot Blight Abatement Program, § 5-85 et seq.; derelict buildings, § 5-145 et seq.; public health nuisances generally, § 15-31 et seq.; abandoned, unattended and inoperative vehicles, § 27-327 et seq.

State law reference—Nuisances generally, Code of Virginia, § 48-1 et seq.; municipal powers relative to nuisances, Code of Virginia, § 15.2-900 et seq.

DIVISION 1. GENERALLY

Secs. 11-51—11-73. Reserved.

DIVISION 2. POSTING OF SIGNS*

***Cross reference—**Streets, sidewalks and public ways, Ch. 24.

Sec. 11-74. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fixture means a pole; streetlight; tree; tree box; tree stake; fire hydrant; fire alarm box; trash receptacle; stand; wire; rope; public bridge; railroad trestle; drinking fountain; life buoy or any other lifesaving equipment; standard serving as a base or support for a directional sign, traffic regulation or control signal, sign or device; and any other fixture or structure, whether publicly or privately owned or whether permanently or temporarily placed in, on or over a public way. The term shall not include a fixture permanently attached to a building, structure, pole or standard on private property serving as a base or support for a sign and projecting over a part of a public way installed and maintained in accordance with law, provided that it is used only for advertising the enterprise of the occupant of the premises.

Informational sign means banners or signs placed on or across the public right-of-way temporarily to provide directions or information regarding an event.

Public way means a street, sidewalk, alley, road, highway, bridge, viaduct, subway, underpass, park, parkway, playfield, playground and any other similar place in the City opened to and used by the public.

Sign means a sign, placard, banner, flag, bulletin and any other device of any kind or description used for advertising, promotional or solicitation purposes or for any other commercial, noncommercial, or political display or visual communication purposes.

(Code 1993, § 19-21; Code 2004, § 38-111; Code 2015, § 11-74)

Cross reference—Definitions generally, § 1-2.

Sec. 11-75. Penalty for violation.

Any person convicted of a violation of Section 11-76 shall be punished by a fine of not less than $10.00 and not more than $50.00 for each offense. Each individual sign or other form of commercial, noncommercial, or political advertising, promotion, solicitation, communication or display shall be deemed a separate offense. Each day during which any such violation is continued may be treated for all purposes as a separate offense.

(Code 1993, § 19-25; Code 2004, § 38-112; Code 2015, § 11-75)

Sec. 11-76. Unlawful conduct.

It shall be unlawful for any person to paint, mark or write on or post or otherwise affix to or upon a public way or fixture thereon any sign or other form of commercial, noncommercial, or political advertising, promotion, solicitation, communication or display. It shall furthermore be unlawful for any person to cause or, with knowledge, permit such actions to be taken on such person's behalf. Willful interference with a person who is engaged in abatement under Section 11-78 shall also constitute a violation of this division.

(Code 1993, § 19-22; Code 2004, § 38-113; Code 2015, § 11-76; Ord. No. 2006-103-86, § 1, 4-10-2006)

Sec. 11-77. Exceptions.

(a) This division shall not apply to the following signs:

(1) Regulatory, traffic, or informational signs established or posted by or at the direction of an authorized City department.

(2) Signs required to be posted pursuant to State, local, or Federal laws.

(3) Signs permitted by the State Department of Transportation along State-maintained streets, provided that proof of permission must be shown upon request.

(4) Citizens' watch signs, as authorized by this division.

(5) Signs not exceeding four square feet in area giving information concerning the location or use of accessory off-street parking facilities or loading and unloading facilities.

(6) Signs permitted by the Council upon proper application for an encroachment or other form of variance from this division.

(b) Nothing in this division shall apply to the installation of a plaque, plate, statue, or other commemorative monument or marker in accordance with a permit issued by the Department of Public Works, with the approval of the Council.

(Code 1993, § 19-23; Code 2004, § 38-114; Code 2015, § 11-77)

Sec. 11-78. Removal and collection of costs.

Any violation of this division is hereby declared to be a nuisance. No person shall have any legal right to the continued presence of a sign in a public way in violation of this division, nor shall there be any legal remedy against any person solely for the removal from a public way of a sign which is in violation of this division. Any person may abate the nuisance created by a violation of this division without liability for doing so. If abatement is made by the City, the reasonable costs incurred in removal may be assessed against any person responsible for or benefited by the violation, and such costs shall be collected in the same manner as City taxes. For a willful violation, the City shall be entitled to recover costs, the reasonable value of attorney's fees, and punitive damages in any proceeding which it may bring to enjoin future violations.

(Code 1993, § 19-24; Code 2004, § 38-115; Code 2015, § 11-78)

Sec. 11-79. Citizens' community watch signs authorized.

In any area of the City in which there has been established a citizens' community watch or a similar watch wherein citizens residing in an area are organized in cooperation with the Department of Police to combat crime by maintaining surveillance of persons and property within such area, the other sections of this division notwithstanding, the Chief of Police may authorize that signs be placed announcing "protected by community watch" or "protected by citizens neighborhood watch" or making an announcement of similar content. The signs and signposts shall be provided by the City and shall conform to standards set forth by the City Traffic Engineer, who will be responsible for the installation of such signs subject to the approval of the Chief of Police.

(Code 1993, § 19-26; Code 2004, § 38-116; Code 2015, § 11-79)

Secs. 11-80—11-101. Reserved.

ARTICLE IV. REFUSE, LITTER AND WEED CONTROL*

***Cross reference—**Solid waste, Ch. 23.

State law reference—Litter and weed control, Code of Virginia, §§ 15.2-901, 15.2-902.

Sec. 11-102. Unlawful dumping.

(a) It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, junk, demolition materials, hazardous wastes or other offensive, unwholesome, unsightly, unsanitary or unhealthy substances on public property, including in any waters within the City, a public highway, drainage ditch, culvert, pipe, storm drain, right-of-way, property adjacent to such highway or right-of-way, or on private property, without the written consent of the owner thereof or the owner's agent.

(b) Any person convicted of violating this section shall be guilty of a Class 1 misdemeanor and shall be punished by a fine of not more than $2,500.00 or confinement in jail for not more than 12 months, or both such fine and imprisonment.

(Code 1993, § 19-51; Code 2004, § 38-151; Code 2015, § 11-102)

Sec. 11-103. Unlawful accumulation.

It shall be unlawful for any person who owns or occupies property within the City to permit the accumulation of trash, garbage, refuse, litter, junk, demolition materials, upholstered furniture manufactured primarily for indoor use located on the exterior of a fully-enclosed structure including unenclosed porches, or other offensive, unwholesome, unsightly, unsanitary or unhealthy substances on such property or on any alley, sidewalk, public right-of-way, grass strips, or street abutting such property.

(Code 1993, § 19-52; Code 2004, § 38-152; Code 2015, § 11-103; Ord. No. 2015-208-228, § 1, 12-14-2015)

Sec. 11-104. Exceptions.

Sections 11-102 and 11-103 shall not apply to the following:

(1) Legally authorized junk dealers or persons legally authorized to repair, rebuild, recondition or salvage.

(2) A landfill operated by the City.

(3) A legally authorized private landfill.

(4) Trash, garbage, refuse, litter and other similar substances, both commercial and noncommercial, while in containers approved by the Director of Public Works or bulk items, appliances, tree and shrubbery trimmings, and yard waste, the collection of which has been prearranged with or provided for collection by the Director of Public Works pursuant to Section 23-44.

(5) Trash, garbage, refuse, litter and other similar substances while stored in containers approved by the Director of Public Works, but not for collection by the City.

(Code 1993, § 19-53; Code 2004, § 38-153; Code 2015, § 11-104; Ord. No. 2018-027, § 1, 2-26-2018)

Sec. 11-105. Weeds and other vegetation.

(a) It shall be unlawful for any person who owns or occupies property within the City to permit any grass, plant, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on such property.

(b) It shall be unlawful for any person who owns or occupies property within the City to permit the existence on such property of any live or dead hedge, shrub, tree or other vegetation, any part of which extends or protrudes into any street, sidewalk, public right-of-way, grass strip or alley so as to obstruct or impede or threaten the safe and orderly movement of persons or vehicles.

(c) It shall be unlawful for any person who owns or occupies property within the City to permit any grass, plants, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on any sidewalk, public right-of-way, or grass strip adjacent to such property or unimproved street or alley (to the centerline of such unimproved street or alley).

(d) It shall be unlawful for any person who owns or occupies property within the City to fail to remove fallen trees, detached limbs, or branches, the accumulation of which is offensive, unwholesome, and unsightly.

(e) Violations of this section shall be subject to a civil penalty, not to exceed $50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed $200.00. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000.00 in a 12-month period. In the event three civil penalties have previously been imposed on the same defendant for the same or similar violations, not arising from the same set of operative facts, within a 24-month period, then such violations shall be a Class 3 misdemeanor, which shall not also be classified as a civil penalty.

(Code 1993, § 19-54; Code 2004, § 38-154; Code 2015, § 11-105; Ord. No. 2015-191, § 1, 1-11-2016)

State law reference—Farming exemption, Code of Virginia, § 15.2-901(A)(3).

Sec. 11-106. Unlawful nuisances.

(a) The following conditions, when allowed to exist on property, are hereby declared to be nuisances:

(1) Infestation by bats, rodents, insects, arachnids, or vermin, including, but not limited to, rats, mice, bees, flies, fleas, cockroaches, bed bugs, spiders, ants, silverfish, termites, and powder-post beetles;

(2) Accumulation of animals, including, but not limited to, dogs and cats; fowl; and other birds in a manner that creates conditions which are unsanitary or injurious or threatens the health or safety of the public;

(3) Trees or parts thereof in danger of falling onto buildings, structures, vehicles or any public right-of-way;

(4) Garbage, as defined by Section 23-1, which is not contained in a watertight container with a lid that conforms to the requirements of Section 15-66;

(5) Accumulation of stagnant water leading to the breeding of mosquitoes;

(6) Vehicle tires that have been removed from the rim; and

(7) Any other condition that threatens the health or safety of the public.

(b) It shall be unlawful for any person who owns or occupies property within the City to permit a nuisance as set forth in subsection (a) of this section to exist on such property.

(Code 2004, § 38-154.1; Code 2015, § 11-106; Ord. No. 2012-209-209, § 1, 12-10-2012)

Sec. 11-107. Violations and notice.

(a) Each day any violation of Section 11-102, 11-103, or 11-105 continues after issuance of an initial notice shall constitute a separate offense. Upon conviction, each violation of Section 11-102, 11-103, or 11-105 shall be punishable as a Class 1 misdemeanor.

(b) In addition to any penalties imposed for a violation of Section 11-102, 11-103, or 11-105, a judge hearing the case shall order the person responsible for such condition to remove, restore, remediate or correct the violation or condition. It shall be unlawful for any person to default in such removal, restoration, remediation or correction after being so ordered, and each day's default shall constitute a violation of and a separate offense under this article.

(c) Any law enforcement officer, fire marshal or any assistant thereof, fire inspector, sworn special police officer, or any other City employee designated by the chief administrative officer is authorized and shall have authority to enforce all sections of this article.

(d) Whenever it shall come to the knowledge of the chief administrative officer, or his or her designee, that there exists upon any land or premises in the City any condition constituting a violation of Section 11-102, 11-103, or 11-105, such person shall serve, post, mail or deliver a notice to any of the following to cause such condition to be abated from such land or premises within 48 hours of delivery or posting of such notice or in the time limit set forth in the notice:

(1) The person causing or creating the condition;

(2) The person allowing the condition to remain or continue;

(3) The occupant of the land or premises; or

(4) The owner of the land or premises.

Proof of such service, delivery, mailing or posting shall be sufficient evidence of such notice. One such notice per growing season, defined as the period annually from March 1 to November 30, shall be considered reasonable notice.

(e) Notwithstanding subsection (d) of this section, if the Chief Administrative Officer or any person specified in subsection (c) of this section determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the condition may be ordered abated without ever giving the notice required in this section.

(f) When any person is in possession of any property or has charge thereof within the City as executor, administrator, trustee, guardian, or agent, such person shall be deemed to be the owner of such property for the purposes of this article and shall be bound to obey all orders and notices of the Chief Administrative Officer in regard to nuisances; sanitation; violations of Section 11-102, 11-103, or 11-105; or other matters, so far as they may affect such property, in the same manner, and be subject to the same penalties and fines as if such person were actually the owner of such property.

(Code 1993, § 19-55.1; Code 2004, § 38-155; Code 2015, § 11-107; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2015-191, § 1, 1-11-2016)

Sec. 11-108. Abatement by City.

(a) If a condition in violation of Section 11-102, 11-103, or 11-105 remains upon a land or premises after the expiration of the time specified in a notice of violation, the Chief Administrative Officer, or his or her designee, may issue a notice of abatement to such person identified in the notice of violation informing the person that the Chief Administrative Officer will cause the cited condition to be abated at the expense of such person.

(b) An administrative fee of $150.00 shall be assessed in each case. The expense of abatement and the administrative fee shall be chargeable against such person identified in the notice of abatement.

(c) The notice of abatement may either be served, mailed or delivered to such person or posted on the land or premises where the nuisance is located. Proof of such service, delivery, mailing or posting shall be sufficient evidence of the service of notice.

(d) Notwithstanding the notice requirements of this section, if the Chief Administrative Officer, or his or her designee, determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the notice requirement may be dispensed with.

(e) Notwithstanding subsections (a) through (d) of this section, the notice of violation specified in Section 11-107 and the notice of abatement specified in this section can be combined in one document and issued as provided in this article.

(f) If the abatement is undertaken by the City pursuant to this section, the expense of the abatement and the administrative fee shall constitute a lien on real property of the owner and shall be reported to the Finance Director who shall collect the expense and fee in the manner in which City taxes levied upon real estate are authorized to be collected.

(g) Abatement by the City shall be exclusive of and in addition to any criminal penalty which may be imposed.

(h) The Chief Administrative Officer or the designee thereof shall by no later than December 1 of each year submit a report to the City Council concerning information on City vegetation abatement programs, including the number of properties abated, the total cost to the City for such abatement, the number of properties on which liens were imposed in accordance with this section, the total dollar amount of such liens, and the abatement costs collected.

(Code 1993, § 19-56.1; Code 2004, § 38-156; Code 2015, § 11-108; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2015-191, §§ 1, 2, 1-11-2016)

Sec. 11-109. Injunction.

Nothing contained in this article shall preclude the City at any time from applying to a court of competent

jurisdiction for an injunction to abate the violation of any provision of Section 11-102, 11-103 or 11-105 or to otherwise maintain an action to compel a responsible party to abate, raze or remove a public nuisance under authority of State law.

(Code 1993, § 19-57; Code 2004, § 38-157; Code 2015, § 11-109)

State law reference—Similar provisions, Code of Virginia, §§ 15.2-900, 48-5.

Secs. 11-110—11-131. Reserved.

ARTICLE V. GRAFFITI CONTROL*

***Cross reference—**Offenses against property, § 19-77 et seq.

State law reference—Defacing property, Code of Virginia, § 18.2-137.

Sec. 11-132. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Graffiti means the unauthorized application of any writing, painting, drawing, etching, scratching or marking of an inscription, word, figure, or design of any type on any public or private building or other real or personal property owned, operated or maintained by a governmental entity or an agency or instrumentality thereof or by a private person.

(Code 1993, § 19-70; Code 2004, § 38-191; Code 2015, § 11-132)

Cross reference—Definitions generally, § 1-2.

Sec. 11-133. Graffiti prohibited; criminal penalty.

(a) It shall be unlawful for any person to deface or otherwise damage private or public property, by or through the application of graffiti.

(b) Any person violating this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 19-71; Code 2004, § 38-192; Code 2015, § 11-133)

Sec. 11-134. Parental responsibility for damage to public property.

If graffiti is applied to any property of the City by a minor who is living with either or both parents, the City may institute an action and recover from the parents of the minor or either of them for the damages suffered by reason of the willful or malicious destruction of or damage to public property by the minor. The action by the City shall be subject to any limitation on the amount of recovery set forth in Code of Virginia, § 8.01-43 or other applicable provision of State law.

(Code 1993, § 19-72; Code 2004, § 38-193; Code 2015, § 11-134)

Sec. 11-135. Authority for City to remove or repair defacement of buildings, walls, fences and other structures.

(a) The Chief Administrative Officer is authorized to undertake or contract for the removal or repair of the defacement, by or through the application of graffiti, of any public building, wall, fence or other structure or any private building, wall, fence or other structure where such graffiti is visible from any public right-of-way.

(b) Prior to such removal, the Chief Administrative Officer shall provide the property owner with 30 days' notice by at least first class mail, together with such other means as may be legally required, of the Chief Administrative Officer's intent to undertake or contract for the removal or repair of the defacement and shall simultaneously with such notice seek the written permission of the property owner. Should the property owner fail to provide such permission or remove or repair the defacement within 30 days of the date of the notice, the Chief Administrative Officer may have such defacement removed or repaired by agents or employees of the City. Such agents or employees shall have any and all immunity normally provided to an employee of the City.

(c) The removal or repair work may be undertaken by volunteers or individuals required to perform community service by order of any court, under appropriate City supervision. If the defacement occurs on a public

or private building, wall, fence or other structure located on unoccupied property, and the City, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions of this section, the actual cost or expense thereof shall be chargeable to and paid by the owners of such property and may be collected by the City as taxes are collected. Any charge authorized by this section with which the owner of such property shall have been assessed and that remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, Title 58.1, Ch. 39, Arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.). The Chief Administrative Officer may waive and release such liens in order to facilitate the sale of the property, provided that no waiver or release of such a lien shall be deemed to be a waiver of the personal obligation of the property owner at the time the lien was imposed. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. No lien shall be chargeable to the owners of such property unless the City shall have given a minimum of 15 days' notice to the property owner prior to the removal of the defacement.

(Code 1993, § 19-73; Code 2004, § 38-194; Code 2015, § 11-135; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2011-145-146, § 1, 7-25-2011)

State law reference—Authority for above section, Code of Virginia, § 15.2-908.

Secs. 11-136—11-153. Reserved.

ARTICLE VI. BUILDINGS AND OTHER STRUCTURES HARBORING ILLEGAL DRUG USE*

***Cross reference—**Offenses against public morals, § 19-206 et seq.

State law reference—Authority, Code of Virginia, § 15.2-907.

Sec. 11-154. Findings.

(a) The City Council finds that there is an increasing use of real property within the City for the purpose of flagrant violations of the penal laws relating to dangerous drugs. The City Council also finds that such use continues even after the interdiction by police authorities, with repeated offenses being committed at the same properties.

(b) The City Council finds that this situation seriously interferes with the interest of the general public in the areas of quality of neighborhood life and environment, diminution of property values, safety of the public upon the streets and sidewalks, and increasing costs of law enforcement as a result of these illegal activities.

(c) The City Council, therefore, finds it in the public interest to authorize and empower the appropriate City officials to take corrective action to abate drug blight on real property where the owner fails to take corrective action within the prescribed time period. Such corrective action is in response to the apparent proliferation of these illegal activities without prejudice to the use of any other procedures and remedies available under any other law.

(Code 1993, § 5-80; Code 2004, § 14-116; Code 2015, § 11-154)

Sec. 11-155. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affidavit means the affidavit prepared in accordance with Section 11-156(a)(1).

Controlled substance means illegally obtained controlled substances or marijuana, as defined in Code of Virginia, § 54.1-3401.

Corrective action means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as the removal, repair or securing of any building, wall or other structure.

Drug blight means a condition existing on real property which tends to endanger the public health or safety of residents of the City and which is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

Owner means the record owner of real property.

Property means real property and includes, but is not limited to, any room, building, structure, inhabitable structure, vacant or occupied, and any portion thereof.

(Code 1993, § 5-81; Code 2004, § 14-117; Code 2015, § 11-155)

Cross reference—Definitions generally, § 1-2.

Sec. 11-156. Additional enforcement procedures.

(a) In addition to enforcement procedures established elsewhere, the Chief of Police is authorized to undertake corrective action with respect to drug blight on real property in accordance with the following procedures:

(1) The Chief of Police shall execute an affidavit, citing Code of Virginia, § 15.2-907, and affirming that:

a. Drug blight exists on the property;

b. The City has used diligence without effect to abate the drug blight; and

c. The drug blight constitutes a present threat to the public's health, safety or welfare.

(2) The Chief of Police shall submit the affidavit to the Commissioner of Buildings requesting that the last known owner of the property be notified by regular mail sent to the last known address as it appears in the assessment records of the City. The notice and a copy of the affidavit shall advise the owner that:

a. The owner has up to 30 days from the date thereof to undertake corrective action to abate the drug blight described in the affidavit; and

b. If requested to do so, the City will assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in the affidavit.

If the owner notifies the City in writing within the 30-day period that additional time to complete the corrective action is needed, the City shall allow such owner an extension for an additional 30-day period to take such corrective action.

(b) The owner shall be advised by the notice that, if no corrective action is undertaken during such 30-day period, or during the extension if such extension is granted by the City, the City will send by regular mail an additional notice to the owner stating (i) the date certain on which the City may commence corrective action to abate the drug blight on the property or (ii) the date on which the City may commence legal action in a court of competent jurisdiction to obtain a court order to require that the owner take such corrective action or, if the owner does not take corrective action, a court order to revoke the certificate of occupancy for such property. The date of such action shall be no earlier than 15 days after the date of mailing of the second notice. The second notice shall also reasonably describe the corrective action contemplated to be taken by the City.

(c) Upon receipt of the final notice, the owner shall have a right to seek equitable relief in the Circuit Court and shall be responsible for providing reasonable notice to the City as to any intention to seek equitable relief. The City shall initiate no corrective action while a proper petition for relief is pending before the Circuit Court. The owner shall provide such notice of intent within 15 days of receipt of the mailing of the second notice.

(d) If the City undertakes corrective action with respect to the property after complying with this section, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the City as taxes and levies are collected.

(e) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, Title 58.1, Ch. 39, Arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3695 et seq.).

(f) If the owner of such property takes timely corrective action pursuant to this section and the City determines that the drug blight is properly abated as verified by a final written report prepared by the Commissioner of Buildings and approved by the Chief of Police, the proceedings shall promptly be terminated and there shall be no charge or cost to the owner. The owner shall immediately be notified by written notice that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the City from initiating a subsequent proceeding if the drug blight recurs.

(g) Nothing in this section shall be construed to abridge, diminish, limit, or waive any rights or remedies of an owner of property at law or any permits or nonconforming rights the owner may have under Code of Virginia, Title 15.2, Ch. 22 (Code of Virginia, § 15.2-2200 et seq.) or under ordinance of the City. If an owner in good faith takes corrective action, and despite having taken such action, the specific drug blight identified in the affidavit of the City persists, such owner shall be deemed in compliance with this section. Further, if a tenant in a rental dwelling unit, or a tenant on a manufactured home lot, is the cause of drug blight on such property and the owner in good faith initiates legal action and pursues the same by requesting a final order by a court of competent jurisdiction, as otherwise authorized by this Code, against such tenant to remedy such noncompliance or to terminate the tenancy, such owner shall be deemed in compliance with this section.

(Code 1993, § 5-82; Code 2004, § 14-118; Code 2015, § 11-156)

Secs. 11-157—11-171. Reserved.

ARTICLE VII. BUILDINGS AND OTHER STRUCTURES HARBORING BAWDY PLACE*

***Cross reference—**Offenses against public morals, § 19-206 et seq.

State law reference—Authority to adopt, Code of Virginia, § 15.2-908.1; prostitution, assignation, lewdness, Code of Virginia, § 18.2-347.

Sec. 11-172. Findings.

(a) The City Council finds that there is an increasing use of real property within the City for the purpose of a bawdy place. The Council also finds that such use continues even after the interdiction by police authorities, with repeated offenses being committed at the same properties.

(b) The Council finds that this situation seriously interferes with the interest of the general public in the areas of quality of neighborhood life and environment, diminution of property values, safety of the public upon the streets and sidewalks, and increasing costs of law enforcement as a result of these illegal activities.

(c) The Council, therefore, finds it in the public interest to authorize and empower the appropriate City officials to take corrective action to abate a bawdy place on real property where the owner fails to take corrective action within the prescribed time period. Such corrective action is in response to the apparent proliferation of these illegal activities without prejudice to the use of any other procedures and remedies available under any other law.

(Code 1993, § 5-85; Code 2004, § 14-151; Code 2015, § 11-181)

Sec. 11-173. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affidavit means the affidavit prepared in accordance with Section 11-174(a)(1).

Bawdy place means any place within or without any building or structure which is used or is to be used for lewdness, assignation or prostitution, as defined in Code of Virginia, § 18.2-347.

Corrective action means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

Owner means the record owner of real property.

Property means real property and includes, but is not limited to, any room, building, structure, inhabitable structure, vacant or occupied, and any portion thereof.

(Code 1993, § 5-86; Code 2004, § 14-152; Code 2015, § 11-182)

Cross reference—Definitions generally, § 1-2.

Sec. 11-174. Additional enforcement procedures.

(a) In addition to enforcement procedures established elsewhere, the Chief of Police is authorized to undertake corrective action with respect to a bawdy place on real property in accordance with the following procedures:

(1) The Chief of Police shall execute an affidavit, citing Code of Virginia, § 15.2-908.1, and affirming that:

a. A bawdy place exists on the property and in the manner described therein;

b. The City has used diligence without effect to abate the bawdy place; and

c. The bawdy place constitutes a present threat to the public's health, safety or welfare.

(2) The Chief of Police shall submit the affidavit to the Commissioner of Buildings requesting that the last known owner of the property be notified by regular mail sent to the last known address as it appears in the assessment records of the City. The notice and a copy of the affidavit shall advise the owner that:

a. The owner has up to 30 days from the date thereof to undertake corrective action to abate the bawdy place described in the affidavit; and

b. If requested to do so, the City will assist the owner in determining and coordinating the appropriate corrective action to abate the bawdy place described in the affidavit.

(b) The owner shall be advised by the notice that, if no corrective action is undertaken during such 30-day period, the City will send by regular mail an additional notice to the owner stating the date certain on which the City may commence corrective action to abate the bawdy place on the property. The date of such action shall be no earlier than 15 days after the date of mailing of the second notice. The second notice shall also reasonably describe the corrective action contemplated to be taken by the City.

(c) Upon receipt of the final notice, the owner shall have a right to seek equitable relief in the Circuit Court and shall be responsible for providing reasonable notice to the City as to any intention to seek equitable relief. The City shall initiate no corrective action while a proper petition for relief is pending before the Circuit Court. The owner shall provide such notice of intent within 15 days of receipt of the mailing of the second notice.

(d) If the City undertakes corrective action with respect to the property after complying with this section, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the City as taxes and levies are collected.

(e) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, Title 58.1, Ch. 39, Arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3695 et seq.).

(f) If the owner of such property takes timely corrective action pursuant to this section and the City determines that the bawdy place is properly abated as verified by a final written report prepared by the Commissioner of Buildings and approved by the Chief of Police, the proceedings shall promptly be terminated and there shall be no charge or cost to the owner. The owner shall immediately be notified by written notice of the satisfactory closing of the abatement proceedings. The closing of a proceeding shall not bar the City from initiating a subsequent proceeding if the bawdy place recurs.

(g) Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

(Code 1993, § 5-87; Code 2004, § 14-153; Code 2015, § 11-183)

Secs. 11-175--11-189. Reserved.

ARTICLE VIII. COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY FINANCING PROGRAM*

***Editor's note—**Ord. No. 2020-129, § 3, provides that Ord. No. 2020-129 (which amends this article) takes effect on March 1, 2021.

Cross reference—Finance, Ch. 12.

Sec. 11-190. Commercial property assessed clean energy financing program; established; purpose.

(a) There is hereby established the commercial property assessed clean energy financing program in accordance with Code of Virginia, § 15.2-958.3. Pursuant to this article, the City may authorize contracts to provide loans for the initial acquisition and installation of clean energy improvements with free and willing property owners

of both existing properties and new construction. In addition, private lending institutions shall be provided the opportunity to participate in such contracts.

(b) The purpose of the program for which this article provides is to promote the renovation and construction of commercial, nonprofit and multifamily buildings and structures by incorporating renewable energy production and distribution facilities, energy usage efficiency improvements, or water usage efficiency improvements. The City finds that this will promote the general health and welfare of the community. Water usage efficiency improvements, in particular, benefit the public water supply and wastewater treatment services provided by the City.

(c) In establishing the program for which this article provides, the City finds that the City of Richmond has numerous older buildings with many years of remaining life, and that the renovation, retrofit, or rehabilitation of these buildings with qualifying clean energy improvements would make them more efficient and reduce their greenhouse gas emissions. The rehabilitation of commercial and industrial buildings and structures that are at least 40 years old, in particular, supports the same public purposes advanced by the real estate tax exemption provided for this activity.

(d) The City further finds that the promotion and development of new buildings and structures with energy efficient or water efficient features that exceed current building code requirements, or which use renewable energy, will enhance the real property tax base of the City, make these buildings, if rented, more attractive to tenants, and thereby promote employment and economic growth in the City.

(Code 2015, § 11-190; Ord. No. 2019-274, § 1(11-190), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Sec. 11-191. Definitions.

For the purposes of this article, the terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Amortization schedule means the amortization schedule for loan payments necessary to repay a loan.

Borrower means the person who owns or leases an eligible property and voluntarily applies for and obtains a program loan, or that person's successor in title.

Borrower certificate means a notarized certificate from the borrower, certifying that (i) the borrower is (a) current on payments on all loans secured by a mortgage or deed of trust lien on the property, (b) current on real and personal property tax payments, (c) current on all Federal, State, and local taxes and that there is no Federal income tax lien, judgment lien, or other involuntary lien against the property, and (d) not insolvent or in bankruptcy proceedings, and (ii) that the title of the benefitted property is not in dispute as evidenced by a title report or title insurance commitment from a title insurance company acceptable to the capital provider and the City.

Capital provider means the private lending institution that originates a program loan, or its successors or assigns in interest; or, if the City Council appropriates funds for this purpose and if applicable, the City. The capital provider is the source of funding for, or the current holder of, program loans.

Cost as applied to qualifying improvements shall include the cost of all (a) labor, (b) materials, machinery and equipment, (c) architectural, engineering, consulting (such as energy audits and assessments, feasibility studies and reports, and financial projections), financial and legal services, (d) plans, specifications and studies, (e) physical and building condition surveys, (f) commissioning expenses, (g) project management, (h) energy savings or performance guaranty or insurance, (i) post-installation evaluation, measurement and verification, and building accreditation, (j) permitting fees, (k) due diligence, financing, and closing costs for the program loan, including administrative and capital provider fees that are directly attributable to a qualifying improvement, and (l) reserves for construction period interest.

Eligible property means a property meeting the conditions specified in Section 11-193.

Loan means a loan from a capital provider to a borrower to finance a project in accordance with this article and the program guidelines.

Loan documents means the program memorandum, financing agreement between the capital provider and the borrower, and any other document, agreement, or instrument executed in connection with a loan.

Loan payment means the periodic installment payments of a loan by a borrower, due and payable to the capital provider in such amounts and at such times as described in the loan documents.

Program means the commercial property assessed clean energy financing program created by this article.

Program administrator means an independent third party whose services are procured by the City.

Program guidelines means those procedures, rules, disclosures, and restrictions promulgated, imposed and enforced by the program administrator for the administration of the program.

Program memorandum means a memorandum concerning the assessment lien for which this article provides, which shall (i) be executed by the borrower, the capital provider, and the City, (ii) include the amortization schedule, and (iii) be recorded in the Clerk's Office of the Circuit Court of the City of Richmond against the property at closing to evidence the voluntary special assessment lien for which this article provides and to secure the repayment of the program financing to the capital provider.

Project means the development of qualifying improvements on an eligible property.

Property means an eligible property as defined in Section 11-193, located within the City of Richmond, for which a program loan is applied for or received.

Qualifying improvements means one or more of the improvements listed in Section 11-192.

(Code 2015, § 11-191; Ord. No. 2019-274, § 1(11-191), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Cross reference—Definitions generally, § 1-2.

Sec. 11-192. Qualifying improvements.

The cost of the following types of qualifying improvements to existing buildings and structures, or new construction, on eligible property, may be financed through the program:

(a) Renewable energy production and distribution facilities, including, but not limited to, solar photovoltaic, solar thermal, geothermal, wind, fuel cells, biomass systems, biogas, or methane recovery systems.

(b) Energy usage efficiency systems reasonably expected to reduce the energy usage of the eligible property, including, but not limited to, high efficiency lighting and building systems, heating, ventilation and air conditioning upgrades, air duct sealing, high efficiency boilers and furnaces, high efficiency hot water heating systems, combustion and burner upgrades, fuel switching, heat recovery and steam traps, cogeneration systems, building shell or envelope improvements, reflective roof, cool roof, or green roof systems, weather-stripping, fenestration and door improvements and modifications, insulation (both in walls, roofs, floors and foundations and in heating, ventilation and air conditioning systems' radiant barriers), building energy management systems, process equipment upgrades, and other forms of conservation; provided that for qualifying improvements that are part of a new building or structure, such qualifying improvements shall exceed the minimum energy efficiency requirements of then-applicable law, ordinance, regulation or code.

(c) Water usage efficiency improvements, such as recovery, purification, recycling and other forms of water conservation. For new construction, these improvements qualify for program financing only if they exceed the minimum water usage efficiency requirements of then-applicable law, ordinance, regulation, or code.

(d) Construction, renovation, or retrofitting of eligible property directly related to the accomplishment of any purpose listed in subsection (a), (b), or (c) of this section, whether such qualifying improvement was erected or installed in or on a building or on the ground, it being the express intention of the City to allow qualifying improvements that constitute, or are part of, the construction of a new structure or building to be financed with a program loan.

(e) Improvements that reduce the impacts of water or wind-related natural or manmade events, such as installation of wet and dry floodproofing, raising mechanical and electrical equipment and reinforcement of building envelope to reduce impacts of wind.

(f) Stormwater improvements that reduce on-site stormwater runoff into the stormwater system such as

reduction in the quantity of impervious surfaces, and on-site filtering of stormwater.

(g) Any other category of improvement approved by the program administrator authorized by or consistent with the Commonwealth's authorizing legislation for commercial property accessed clean-energy financing programs.

(Code 2015, § 11-192; Ord. No. 2019-274, § 1(11-192), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Sec. 11-193. Eligible properties.

Eligible properties include all assessable real estate located within the City of Richmond, with all buildings located or to be located thereon, whether vacant or occupied, whether improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the City, other than (a) any condominium project as defined in Code of Virginia, § 55.1-2000 or (b) any residential property containing four or fewer dwelling units. Eligible properties shall be eligible to participate in the program.

(Code 2015, § 11-193; Ord. No. 2019-274, § 1(11-193), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Sec. 11-194. Program arrangements.

(a) The capital providers for the program may be private lending institutions. Public funds may be the source of program funding to the extent appropriated for that purpose by the City Council.

(b) The time period during which borrowers shall repay the program loan shall not exceed the weighted average useful life of the qualifying improvements or 30 years, whichever is less.

(c) Loans shall be repaid by the borrower through loan payments. The capital provider shall be responsible, subject to and in accordance with the program guidelines and loan documents, for the servicing of the loans and the collection of loan payments. In the alternative, loans may be serviced by the program administrator.

(d) The interest rate of a program loan shall be determined by mutual agreement of the borrower and the capital provider.

(e) All of the costs incidental to the financing, administration, and collection of the program loan shall be borne by the borrower. The program is intended to be self-financed through fees that are designed to cover the costs to design and administer the program, including the compensation of any third party administrator. The Chief Administrative Officer shall collect a non-refundable program fee of $500.00 from the borrower upon closing of the loan.

(f) The minimum amount of any single program loan shall be $50,000.00. The maximum amount of any single program loan shall be $25,000,000.00.

(g) Program administrator. The Chief Administrative Officer shall procure and contract with a program administrator in accordance with applicable public procurement laws and regulations. The program administrator's duties shall be those set forth in its contract with the City, which may include, but shall not be limited to (i) creating the program guidelines and revising and updating the guidelines, as necessary; (ii) processing loan applications to determine project eligibility; (iii) ensuring compliance with the requirements of this article, the program guidelines, and applicable state and local law; and (iv) performing marketing and outreach with regard to the program for which this article provides.

(h) The program administrator is authorized and directed to prepare program guidelines for program loans. The program guidelines shall include, without limitation:

(1) Disclosures about program fees, costs, and program processes;

(2) Eligibility requirements for participation in the program by capital providers, contractors, and other stakeholders;

(3) Eligibility requirements for borrowers, qualifying improvements, and projects; and

(4) Suggested underwriting criteria including, without limitation, underwriting guidelines established by the Virginia Department of Mines, Minerals, and Energy or the Mid-Atlantic PACE Alliance Regional C-PACE Toolkit published in June 2018, such as financial ratios related to:

a. Total loan (including program loan) to value benchmarks;

b. Program assessment to value benchmarks;

c. Savings to investment ratio; and

d. Debt service coverage ratio.

(Code 2015, § 11-194; Ord. No. 2019-274, § 1(11-194), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Sec. 11-195. Loan agreements.

Each program loan agreement shall be in substantially the form of the document attached to Ordinance No. 2019-274, adopted November 12, 2019, with such additions, deletions or alterations as permitted by this article.

(Code 2015, § 11-195; Ord. No. 2019-274, § 1(11-195), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Editor's note—Ord. No. 2020-129, § 2 provides as follows: "That the document entitled 'C-PACE Assessment and Financing Agreement' attached to this ordinance shall be the program loan agreement to which the new section 11-195(a) of the Code of the City of Richmond (2015), as amended, refers."

Sec. 11-196. Voluntary special assessment lien.

(a) A program loan shall be secured by a voluntary special assessment lien in the amount of the initial program loan amount, plus all interest, penalties, fees, costs and other amounts accrued or accruing thereon in accordance with the program loan documents against the property where the qualifying improvements are being installed, the existence, terms and conditions of which shall be evidenced by the recordation of a program memorandum in the Clerk's Office of the Circuit Court of the City of Richmond. The capital provider shall record the program memorandum at closing.

(b) The voluntary special assessment lien shall have the same priority status as a property tax lien against real property so long as (i) a written subordination agreement, in a form and substance acceptable to each prior lien holder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien, and (ii) a borrower certificate is submitted to the City prior to recording the program memorandum.

(c) The voluntary special assessment lien, and the program memorandum, shall not be amended without the City's consent, except as provided in the program loan documents, including, without limitation the capital provider's transfer, assignment, or sale as provided in this section. The City's consent shall not be unreasonably withheld, conditioned or delayed. Program loans may be transferred, assigned or sold by a capital provider at any time during the loan term without consent from the borrower, the City, or any other party; provided that the capital provider shall (i) record an assignment of the program loan in the Clerk's Office of the Circuit Court of the City of Richmond, and (ii) deliver a copy of the recorded assignment to the Director of Finance and the program administrator, if applicable. Recordation of the assignment shall constitute an assumption by the new capital provider of the rights and obligations contained in the program loan documents.

(d) The voluntary special assessment lien shall run with the land. That portion of the assessment that has not yet become due shall not be eliminated by foreclosure of a property tax lien.

(e) Delinquent payments shall be subject to all fees and collection methods permitted under the laws of the Commonwealth of Virginia for the collection of delinquent taxes.

(f) The Director of Finance shall enforce the voluntary special assessment lien in the same manner that a property tax lien against real property is enforced. The Director of Finance shall be entitled to recover costs and expenses, including attorney's fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect delinquent property taxes, including utilizing any administrative remedies provided by the Commonwealth of Virginia. The costs and expenses recovered by the City shall be in addition to any costs, expenses, interest, or other amounts due and owing to the capital provider in accordance with the program loan documents. For the purposes of enforcement of the voluntary special assessment lien herein, any eligible property which has an outstanding voluntary special assessment imposed pursuant to this article shall be enforceable after June 30 following the first anniversary of either the real estate tax or the special assessment having become due under the authority of Code of Virginia, § 58.1-3965.1.

(Code 2015, § 11-196; Ord. No. 2019-274, § 1(11-196), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Sec. 11-197. Role of City; limitation of liability.

Borrowers and capital providers participate in the program at their own risk. The City makes no representation or warranty as to the validity, enforceability, priority, or any other character of any program loan agreement or voluntary special assessment lien and borrowers and capital providers agree to release and hold the City harmless from and against any and all liabilities, claims, suits, liens, judgments, damages, losses, and expenses, including, without limitation, reasonable legal fees and costs arising in whole or in part from acts, omissions, breach or default of borrowers or capital providers in relation to or under the performance of any program loan agreement.

(Code 2015, § 11-197; Ord. No. 2019-274, § 1(11-197), 11-12-2019; Ord. No. 2020-129, § 1, 6-22-2020)

Chapter 12

FINANCE*

***Charter reference—**Financial powers of City, § 2.02; financial administration, Ch. 8; budgets, Ch. 6; borrowing, Ch. 7B.

Cross reference—Any ordinance or resolution promising or guaranteeing the payment of money by or on behalf of the City saved from repeal, § 1-4(1); any ordinance or resolution authorizing the issuance of bonds or other evidences of debt of the City saved from repeal, § 1-4(3); any ordinance or resolution concerning the appropriation or expenditure of money saved from repeal, § 1-4(8); administration, Ch. 2; City Auditor, § 2-184 et seq.; Department of Budget and Strategic Planning, § 2-626 et seq.; Audit Committee, § 2-1081 et seq.; commercial property assessed clean energy financing program, § 11-190 et seq.; imposition of costs for cleanup of hazardous waste, § 13-24; public procurement, Ch. 21; public retirement, Ch. 22; taxation, Ch. 26.

State law reference—Budgets generally, Code of Virginia, § 15.2-2503 et seq.; Public Finance Act, Code of Virginia, § 15.2-2600 et seq.

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

When used in this chapter, the following words and phrases have the meanings ascribed to them by this section unless the context clearly indicates that a different meaning is intended:

Budget item means an appropriation of funds within an agency authorized to be expended in furtherance of (i) a program, (ii) a subprogram, (iii) a group of programs, or (iv) a group of subprograms.

Program means a set of activities within an agency undertaken in accordance with a plan of action organized to realize one common purpose with an identifiable end result or outcome. The term "program" is intended to have a meaning equivalent to the term "cost center" as used in the City's chart of accounts.

Subprogram means a specific work function or combination of work functions that is performed in support of an agency, organizational unit, program, or project. The term "subprogram" is intended to have a meaning equivalent to the term "service code" as used in the City's chart of accounts.

Zero-based budgeting means an approach to budgeting that requires all programs to begin each budgeting cycle with a projected budget of $0.00 in which the allocation of funds is based on the merits of each program's policy goals, performance, and other attributes without respect to the amount of any prior appropriation for that program.

(Code 2015, § 12-10.1; Ord. No. 2017-120, § 1, 6-26-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 12-2. Designation of banks for deposit of funds.

The Director of Finance is hereby required to deposit funds belonging to the City in any of the qualified public depositories located within the City; or in qualified public depositories that maintain a branch office within the City. As used in this chapter, the term "qualified public depository" shall have the meaning ascribed to it under Code of Virginia, § 2.2-4401, the Virginia Security for Public Deposits Act, unless a different meaning is plainly required by the text.

(Code 1993, § 11-1; Code 2004, § 42-1; Code 2015, § 12-1)

Sec. 12-3. General account and other funds.

(a) The Director of Finance is hereby authorized and directed to cause all money collected or received for the benefit of the City or any agency thereof to be deposited in qualified public depositories to the credit of the City general account; except that money collected or received for the Richmond Retirement System, the trust funds enumerated in Section 12-44, and any other money received for which the maintenance of a separate bank account is necessary to meet legal, contractual or reporting requirements shall not be deposited to the credit of the City general account but shall be deposited in qualified public depositories for credit to such account as is required by law or in the absence of legal requirements to such account as, in the opinion of the Director of Finance, is necessary

or desirable to properly segregate and account for such money. The term "City of Richmond" shall be included in the title of each such account.

(b) The Director of Finance is hereby authorized to disburse any cash in banks credited to the City general account to meet any properly authorized and approved payment chargeable to any account of the City except the accounts of the Richmond Retirement System and the trust funds enumerated in Section 12-44.

(c) If, in the opinion of the Director of Finance, cash in banks credited to the City general account is in excess of the current and reasonably foreseeable cash needs, the Director is authorized to prudently invest and reinvest such excess cash as authorized and prescribed in the Investment of Public Funds Act (Code of Virginia, § 2.2-4500 et seq.), the Local Government Investment Pool Act (Code of Virginia, § 2.2-4600 et seq.) and the Government Non-Arbitrage Investment Act (Code of Virginia, § 2.2-4700 et seq.).

(Code 1993, § 11-2; Code 2004, § 42-2; Code 2015, § 12-2)

Sec. 12-4. Service fee or charge for returned check or draft issued to City.

A fee or service charge in the maximum allowed as permitted by Code of Virginia, § 15.2-106 is hereby imposed upon and shall be collected from each person, regardless of form or nature, uttering, publishing or passing to the City in payment of taxes or any other sum due to the City a check or draft, if such check or draft shall be returned to the City because of insufficient funds in the account upon which drawn, because there is no such account, or because the account upon which drawn has been closed prior to the time such check or draft is presented for payment.

(Code 1993, § 11-3; Code 2004, § 42-3; Code 2015, § 12-3)

Cross reference—Fee or service charge for returned check or draft in payment of utility charges, § 28-67.

Sec. 12-5. Reserve fund for permanent public improvements.

(a) There is hereby established a reserve fund for permanent public improvements pursuant to Section 6.21 of the Charter. The fund shall consist of the following:

(1) Such portion of the general fund cash surplus not otherwise appropriated at the close of any fiscal year as may be assigned thereto by the City Council;

(2) The whole or any part of the proceeds of any other tax or any other source of revenue as may be assigned to the fund by the Council; and

(3) All unexpended funds appropriated, assigned or transferred to a reserve fund for permanent public improvements.

(b) The reserve fund for permanent public improvements shall be used only to finance the cost of public improvements included in capital budgets when appropriations are made from the fund by the City Council for such purposes.

(Code 1993, § 11-4; Code 2004, § 42-4; Code 2015, § 12-4)

Sec. 12-6. Payment of costs of serving meals to guards at City jail.

The Sheriff is authorized to permit meals prepared for prisoners confined in the City jail to be served to persons employed to guard and confine such prisoners and to otherwise perform duties on the premises in connection therewith. Every such person shall pay to the Sheriff the cost incurred in providing, preparing and serving such meals, and the Sheriff shall pay the funds so collected into the City treasury at such times as shall be required by the Director of Finance. The Sheriff shall determine and fix the amount of such cost and shall be responsible for the payment thereof into the City treasury, whether or not collected by the Sheriff. The Sheriff shall be liable for the cost incurred in providing, preparing and serving such meals to such persons, and, if payment therefor has not been made, the Sheriff shall pay such cost into the City treasury. The Director of Finance is authorized to disburse the funds so paid into the City treasury in the proportion that the cost of feeding prisoners in the jail is borne by the City and the State.

(Code 1993, § 11-5; Code 2004, § 42-5; Code 2015, § 12-5)

Charter reference—Authority to operate jail, § 2.05(e).

Sec. 12-7. Rental charge for automotive equipment acquired by City included within central automotive equipment pool.

The Director of Public Works, with the concurrence of the Chief Administrative Officer, shall establish an appropriate rental charge for each class and type of automotive equipment acquired by the City included within the central automotive equipment pool. Such rental charge may be based on a per-mile or per-unit-of-time basis and shall be adequate to provide sufficient funds for the operation, maintenance, repair and replacement of each such piece of equipment within the estimated life of the equipment. The rental rate, with the approval of the Chief Administrative Officer, may be adjusted for every class and type of equipment from time to time to ensure the adequacy of the rental charge to provide for the replacement of such equipment.

(Code 1993, § 11-6; Code 2004, § 42-6; Code 2015, § 12-6; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-21-67, § 2, 4-26-2010)

Sec. 12-8. Duties of Department of Finance.

(a) The Department of Finance shall be responsible for the administration and management of the City's insurance program, worker's compensation, employee hospitalization and the safety and occupational health program of the City.

(b) The Department of Finance shall:

(1) Work with all department, division and bureau heads of the City to identify all risks confronting the City;

(2) Assist all City department, division and bureau heads to eliminate or reduce risks incidental to the City departments, divisions or bureaus;

(3) Develop commercial insurance and self-insurance programs to most effectively and economically protect the City against losses; and

(4) Be responsible for the education and training of all City employees with regard to loss prevention and safety techniques.

(Code 1993, § 11-7; Code 2004, § 42-7; Code 2015, § 12-7)

Sec. 12-9. Petty cash funds; limitations on amount.

The Director of Finance, in accordance with Section 8.03(f) of the Charter, may authorize any department or agency of the City to maintain a petty cash fund. The amount held in an authorized petty cash fund shall not exceed the projected average monthly disbursements from the fund or $1,500.00, whichever is greater. Such funds shall be reconciled and reported to the Director of Finance on not less than a monthly basis.

(Code 1993, § 11-8; Code 2004, § 42-8; Code 2015, § 12-8)

Sec. 12-10. Employee parking fee.

The Chief Administrative Officer may cause the assessment of a fee not to exceed $60.00 per month to be paid by all employees of the City assigned a parking space in a City-owned parking area. The Chief Administrative Officer may establish a procedure under which such fee shall be deducted from the paychecks of the employees.

(Code 2004, § 42-9; Code 2015, § 12-9; Ord. No. 2005-70-83, § 1, 5-31-2005)

Cross reference—Officers and employees, § 2-57 et seq.

Sec. 12-11. Deadline for submission of budget to Council.

Pursuant to Section 6.02 of the Charter, the day fixed by the Council for the submission by the Mayor of the budgets, the budget message and the capital budget as required by Section 6.02 of the Charter shall be March 6, or, if such date falls on a weekend or legal holiday, the last City working day before such date, of each year at 3:00 p.m. Failure to submit the budgets, the budget message and the capital budget as required by this section and in accordance with Section 6.02 of the Charter shall be punished in accordance with Section 1-16. In addition to any other penalties, a continuing failure to submit the budgets, the budget message and the capital budget as required by this section and in accordance with Section 6.02 of the Charter shall be grounds for an injunction pursuant to Code of Virginia, § 15.2-1432.

(Code 2004, § 42-10; Code 2015, § 12-10; Ord. No. 2005-291-274, § 1, 12-12-2005; Ord. No. 2007-11-31, § 1, 2-12-2007; Ord. No. 2009-12-32, § 1, 2-23-2009; Ord. No. 2009-44-59, § 1, 4-27-2009; Ord. No. 2010-34-40, § 1, 2-22-2010; Ord. No. 2010-233-213, § 1, 12-13-2010; Ord. No. 2011-164-196, § 1, 12-12-2011)

Sec. 12-12. Form of budget submitted to Council.

(a) Pursuant to Section 6.04 of the Charter, the form of the budget submitted by the Mayor shall be as required by the Council in this section. The operating budget shall set forth (i) a description of the fund, agency, program, subprogram, and activity for all proposed expenditures for the fiscal year, (ii) the amounts of salaries, fringe benefits and other operating expenses for each program and (iii) for all budget items in the non-departmental budget, the information required by subsection (a) of Section 12-14. The operating budget shall include a summary of a zero-based budgeting analysis for each proposed budget item that includes, at a minimum, the work-load measures and cost factors used to arrive at the proposed appropriation for that proposed budget item. The operating budget shall identify each program and subprogram within each proposed budget item; however, identification of a subprogram is not required when the entire program of which a subprogram is a part is included in the proposed budget item.

(b) The operating budget also shall include the following information, for the entire City Administration, for the previous two fiscal years and for the current and proposed fiscal years:

(1) A summary of the proposed budget by program and subprogram by agency;

(2) A summary of expenditures by agency, program, and subprogram;

(3) Target service level and performance measures for each program and subprogram; and

(4) Total expenditures by agency by fund.

(c) The capital budget, shall include, in addition to the capital improvement program:

(1) A listing of all proposed capital projects by council district;

(2) A listing, by major categories, of all capital projects for which funding has been made available in previous years but has not been fully expended;

(3) A description, effective at the time of submission, of the current status of all capital projects for which funding has been made available in previous years but has not been fully expended;

(4) A listing and brief description of all proposed school projects;

(5) For each capital project, (i) a description of the purpose of the project, (ii) an enumeration of the annual operating costs of the project once it is completed, (iii) an enumeration of future capital costs if an obligation to pay those capital costs is expected to be incurred during the period covered by the capital improvement program in which the project appears; and (iv) the plan for funding all capital costs and all operating costs identified pursuant to this subdivision and, if applicable, subdivision (6) showing the year in which an obligation to pay each such cost is expected to be incurred, the agency that will be required to pay that cost, the amount of that cost, and the expected source of funds to pay that cost, and (v) the identity, professional certifications, and licenses of the person who prepared the aforementioned enumerations; and

(6) For each capital project that involves the acquisition of improved land, (i) a description of the proposed use of the improved land so acquired, (ii) an evaluation of the suitability of the improved land for that proposed use, including any additions, alterations, modifications or renovations to the existing improvements that are reasonably necessary to make the improved land usable for that proposed use and estimates of all costs thereof, (iii) an evaluation of the mechanical condition and the structural condition of the improvements to be acquired, including any conditions that are likely to require remediation during the period covered by the current capital improvement program and estimates of all costs thereof, and (iv) the identity, professional certifications, and licenses of the person who prepared the aforementioned evaluations.

In addition, the information required by subdivisions (5) and (6) of this subsection shall be submitted to the City Council at the time any ordinance to adopt or amend the capital budget or the capital improvement program is introduced.

(d) The budget shall include a per capita cost calculation for each budget expenditure listed therein.

(e) In addition to such other information as may be appropriate, the budget message required by Section 6.06 of the Charter shall include a table for each agency that sets out the total operating and capital budget expenditures and the per capita amount of each such total budget. The calculation of the per capita amounts shall be based on the most recent population estimates available from the Weldon Cooper Center for Public Service at the University of Virginia.

(f) When the Mayor proposes an annual budget that includes a plan for the second following fiscal year, the format of the table required by subsection (e) of this section shall be as follows:

(1) Columns arranged from left to right shall be: Prior Fiscal Year Actual, Current Fiscal Year Adopted, Next Fiscal Year Proposed, and The 2nd Following Fiscal Year Proposed.

(2) Rows arranged from top to bottom shall be: Personnel Services, Operating, Total General Fund, Special Fund, Capital Improvement, Total Agency Summary, Per Capita, and Total Staffing.

(3) In cases where the funding sources require it, the table may be altered to accurately display Non-General Fund sources.

(g) When the Mayor proposes an annual budget that does not include a plan for the second following fiscal year, the format of the table required by subsection (e) of this section shall be as follows:

(1) Columns arranged from left to right shall be: 2nd Prior Fiscal Year Actual, Prior Fiscal Year Actual, Current Fiscal Year Adopted, and Next Fiscal Year Proposed.

(2) Rows arranged from top to bottom shall be: Personnel Services, Operating, Total General Fund, Special Fund, Capital Improvement, Total Agency Summary, Per Capita, and Total Staffing.

(3) In cases where the funding sources require it, the table may be altered to accurately display Non-General Fund sources.

(h) Fifteen bound copies of the budget, in a format which includes the information specified in this section, shall be delivered to Room 305, Richmond City Hall, on the date and at the time specified in Section 12-11. One additional copy of the budget, in an electronic spreadsheet form that can be manipulated by the recipient, shall be delivered at the same time.

(Code 2004, § 42-11; Code 2015, § 12-11; Ord. No. 2005-291-274, § 1, 12-12-2005; Ord. No. 2007-11-31, § 1, 2-12-2007; Ord. No. 2009-163-173, § 1, 10-26-2009; Ord. No. 2015-161-227, § 1, 12-14-2015; Ord. No. 2017-021, § 1, 2-27-2017; Ord. No. 2017-120, § 2, 6-26-2017; Ord. No. 2019-004, § 1, 1-28-2019)

Sec. 12-13. Form of budget amendments submitted to Council.

For purposes of this section, "transfer" means the movement of all or a portion of an existing appropriation from one budget item to another budget item. An ordinance appropriating additional funds to a budget item or making a transfer must identify each budget item affected by the increase or transfer, whether the appropriation for that budget item is to be decreased to serve as a source of funds or increased to receive additional funds or transferred funds, and the dollar amount by which the appropriation for that budget item is to be decreased or increased. At the time an ordinance appropriating additional funds to a budget item or making a transfer is introduced, the ordinance must be accompanied by supporting documentation that includes the following:

(1) All background information relating to the appropriation of additional funds or the transfer.

(2) The reason for the appropriation of additional funds or the transfer.

(3) Each source of the proposed appropriation of additional or transferred funds, including:

a. For new or increased revenue proposed to support the transfer to an existing budget item or a new budget item, the amount of the new revenue or increase in revenue and the reason the new revenue or increase in revenue is available.

b. For a reduced appropriation for another budget item, the budget item to be reduced, the amount of the reduction, the reason for the reduction, and an analysis of the impact on each program or subprogram funded by that budget item.

c. For the use of a fund balance, reserve, contingency, or other funding source, an identification of the specific funding source to be used, the amount of that funding source proposed to be used, and the reason for the use of that funding source.

(4) Each budget item that is to be increased, including:

a. For any new budget item proposed to be created, an item number, a title, and one or more program or subprogram numbers corresponding to the City's chart of accounts. The item number is to be assigned a decimal number that falls between the item number of the budget item immediately preceding the new budget item and the item number of the budget item immediately following the new budget item within the adopted budget of the agency in which the new budget item is to be included.

b. For any existing budget item proposed to be increased, the title and number corresponding to the City's chart of accounts of each new program or subprogram in addition to the programs or subprograms already included within the budget item.

The supporting documentation for each such budget item must set out the total appropriation proposed for the current fiscal year and any fiscal impact and fiscal implications for future fiscal years.

(5) The results expected from the appropriation of additional funds or transfer.

(6) The most likely impact if the ordinance appropriating additional funds or making the transfer is not adopted.

(Code 2015, § 12-11.1; Ord. No. 2017-120, § 3, 6-26-2017)

Sec. 12-14. Appropriations to non-departmental accounts.

(a) Each budget item in a non-departmental budget shall have the following information associated with such line item at the times prescribed by this subsection:

(1) The planned uses of the funds appropriated;

(2) The timeline for completion of the purpose of the appropriation; and

(3) The agency, organization or program manager responsible for ensuring that the purpose of the appropriation is completed.

For each appropriation line item in a non-departmental budget included with the annual budget or any budget amendment ordinance submitted by the Mayor, the information required to be associated with such appropriation line item by this subsection shall be included in the annual budget or such budget amendment ordinance at the time of submission by the Mayor in accordance with Section 12-11. For each appropriation line item in a non-departmental budget that is added or modified by the City Council, the final adopted budget or budget amendment ordinance shall include the information required to be associated with such appropriation line item by this subsection at the time of adoption in accordance with Section 6.11 of the Charter.

(b) When an annual appropriation or budget ordinance or any amendment thereto appropriates monies to a non-departmental budget, such appropriations shall be deemed to be appropriated specifically for each particular program listed in such non-departmental budget. All monies appropriated to each non-departmental budget program shall be disbursed within 45 days after the City's receipt of an invoice from the organizations and agencies entitled to receive monies from such appropriations. No expenditures shall be made from monies appropriated in accordance with the non-departmental budget other than for the specific organizations and programs set forth in the ordinance or ordinances making appropriations to such non-departmental budget. No appropriation balance or part thereof shall be transferred from one program within the non-departmental budget to the appropriation for any other program within or without the non-departmental budget except by an amendment recommended by the Mayor and adopted by the Council. Each expenditure or transfer in violation of this section and each failure to disburse monies as required by this subsection shall be unlawful and shall be punished as a Class 3 misdemeanor.

(Code 2004, § 42-12; Code 2015, § 12-12; Ord. No. 2008-290-276, § 1, 11-24-2008; Ord. No. 2009-163-173, § 1, 10-26-2009; Ord. No. 2017-120, § 4, 6-26-2017)

Sec. 12-15. Contracts for non-departmental appropriations.

(a) Each non-City entity that receives money from the City as a result of an appropriation in any non-departmental budget of the City shall enter into a grant contract with the City prior to the disbursement of any monies by the City to such non-City entity pursuant to such appropriation, provided that the provisions of this section shall not apply to line items in a non-departmental budget of the City that have one or more of the following characteristics:

(1) The line item is an appropriation to or for expenditure by a City Agency.

(2) The line item is an appropriation to a non-City entity subject to the reporting requirements imposed by Section 2-773 other than the Greater Richmond Transit Co.

(3) The line item is an appropriation to satisfy an obligation under an existing contract or other instrument.

(b) The grant contract shall contain:

(1) Information sufficient to identify the City officer or employee responsible for monitoring the non-City entity's compliance with the contract;

(2) The scope of services to be provided by the non-City entity with the City money disbursed to the non-City entity;

(3) Specific performance measures sufficient to enable the City to determine whether the non-City entity actually has provided the services that the non-City entity is to provide with the City money disbursed to the non-City entity; and

(4) Provisions for the regular reporting to the City officer or employee responsible for monitoring the non-City entity's compliance with the contract sufficient to enable the City officer or employee to determine whether the non-City entity is meeting the specific performance measures set forth in the contract. The Chief Administrative Officer is authorized to execute any grant contract pursuant to this section on the City's behalf, provided that the City Attorney or the designee thereof first has approved the form of the grant contract.

(c) It shall be unlawful for any City officer or employee to disburse or any non-City entity to receive any money as a result of an appropriation in any non-departmental budget of the City if the non-City entity and the City have not both signed such a grant contract.

(d) At least 30 days prior to the Mayor's submission of the Mayor's proposed annual budget, the Chief Administrative Officer shall furnish the City Council with a report detailing the performance of each non-City entity appropriated funds in the prior year as compared with the requirements of that non-City entity's grant contract.

(Code 2004, § 42-13; Code 2015, § 12-13; Ord. No. 2010-169-2011-5, § 1, 1-24-2011; Ord. No. 2018-237, § 1, 9-24-2018)

Sec. 12-16. Publication of payment register.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, unless the context clearly requires the application of a different meaning:

Payment means a disbursement by the City to any person for operating purposes. The term "payment" does not include disbursements by the City to any employee of the City, a constitutional officer of the City, or any other entity for which the City manages accounts payable for personnel purposes except for reimbursement of expenses of an operating nature.

Person means a person as defined by Code of Virginia, § 1-230.

Register means a record, derived from the City's financial records, of all payments during a month that states for each payment the following:

(1) The name of the payee.

(2) The check number, wire number, or electronic funds transfer number.

(3) The date of the payment.

(4) The amount of the payment.

(5) The invoice description.

(6) The fund code.

(7) The cost center.

(8) The account code.

(9) The payment document used.

(10) The type of the disbursement.

(b) *Publication required.* The Director of Finance shall cause to be published on the City's website a read-only, searchable version of each month's register accessible to the general public beginning no later than the month beginning July 1, 2015. The Director of Finance shall cause each month's register to be published on the City's website at the time of the close of that month and shall maintain that month's register on the City's website for the period of time that the City is required to maintain that month's register pursuant to the Virginia Public Records Act, Code of Virginia, §§ 42.1-76—42.1-90.1. The Director of Finance may redact particular fields for particular payments only if and to the extent required by law or permitted by the Virginia Freedom of Information Act, Code of Virginia, §§ 2.2-3700—2.2-3714, provided that nothing in this section shall require the Director of Finance to redact any of the information in the register simply because the Virginia Freedom of Information Act, Code of Virginia, §§ 2.2-3700—2.2-3714, so permits.

(Code 2004, § 42-14; Code 2015, § 12-14; Ord. No. 2014-257-2015-9, § 1, 1-12-2015)

Cross reference—Definitions generally, § 1-2.

Sec. 12-17. Delay in submission of required detailed statement and audited financial report.

The Chief Administrative Officer shall, by no later than November 15 of each year, notify the Council of any anticipated delay in the timely submission of the detailed statement and the audited financial report required by Code of Virginia, §§ 15.2-2510 and 15.2-2511. In addition, whenever such detailed statement or such audited financial report is not submitted to the Auditor of Public Accounts or to the Council by the deadlines set forth in Code of Virginia, §§ 15.2-2510 and 15.2-2511, the Chief Administrative Officer shall provide the Council with a report concerning the following within 30 days after such detailed statement and such audited financial report have been submitted to the Council:

(1) The issues, causes or events that resulted in a delay in the submission of the detailed statement or audited financial report by the deadlines set forth in Code of Virginia, §§ 15.2-2510 and 15.2-2511.

(2) A summary of the audit findings identified in the audited financial report.

(3) The details concerning a corrective action plan for ensuring that delays in the timely submission of the detailed statement or audited financial report by the deadlines set forth in Code of Virginia, §§ 15.2-2510 and 15.2-2511 do not occur in the future.

(4) A schedule of activities and critical benchmarks to ensure the timely submission of the detailed statement and audited financial report by the deadlines set forth in Code of Virginia, §§ 15.2-2510 and 15.2-2511.

(5) A description of any additional resources necessary to facilitate the timely submission of the detailed statement and audited financial report by the deadlines set forth in Code of Virginia, §§ 15.2-2510 and 15.2-2511.

(Code 2015, § 12-15; Ord. No. 2015-89-70, § 1, 4-27-2015)

Sec. 12-18. Five-year plan.

On or before January 31 of each year, the Mayor shall submit a written five-year plan for City finances to the City Council and make or cause a designee to make an oral presentation to the City Council on the five-year plan. At a minimum, the five-year plan must include projections of general fund revenues and expenses for the upcoming fiscal year and the four fiscal years thereafter. At any time, the five-year plan is revised or updated, the Mayor shall

submit such revision or update in writing to the City Council.

(Code 2015, § 12-15.1; Ord. No. 2017-120, § 5, 6-26-2017)

Sec. 12-19. Reporting on expenditures made during emergencies.

For purposes of this section, "emergency" means a "local emergency" or a "state of emergency" as those terms are defined by Code of Virginia, § 44-146.16. Within 30 days after an emergency has ended, the Chief Administrative Officer shall submit to the City Council a written report detailing the full fiscal and budgetary impact of the emergency, including, but not limited to, each budget item, for which expenditures exceeded the then-unencumbered portion of appropriation as a result of the emergency, the amount by which each such appropriation was exceeded, and on what the funds in excess of the appropriation were expended.

(Code 2015, § 12-15.2; Ord. No. 2017-120, § 5, 6-26-2017)

Sec. 12-20. Reporting—Capital projects.

(a) The Chief Administrative Officer shall cause the preparation of a written quarterly financial report that identifies the actual costs and any projected funding surplus or additional funding requirement for each capital project to provide the Council with a more accurate basis for the appropriation of funds for such projects and the submission of such report to the Council no later than 45 days after the end of each quarter. At a minimum, each report shall include the following for each capital project:

(1) The original cost estimate.

(2) The current cost estimate.

(3) The current appropriation.

(4) The funding source or sources.

(5) The year-to-date expenditures.

(6) The life-to-date expenditures.

(7) The amount of any additional funding requirement.

(8) Any balance remaining to the credit of any completed project.

(9) The amount of any balance remaining to the credit of a completed project that the Mayor transfers to an incomplete project pursuant to Section 6.19 of the Charter, including (i) the title of each project to receive such reallocated funds and (ii) a brief explanation of the need for the additional funds for each such project.

(b) At the same time that the Mayor transfers any portion of the balance remaining to the credit of a completed project to an incomplete project pursuant to Section 6.19 of the Charter, the Chief Administrative Officer shall notify each member of the City Council and the Council Chief of Staff in writing of the transfer together with the information required by subdivision (9) of subsection (a) of this section.

(Code 2015, § 12-15.3; Ord. No. 2018-197, § 1, 7-23-2018)

Sec. 12-21. Monthly financial synopses.

The Chief Administrative Officer shall submit to the Council Chief of Staff on the 15th day of each month a written brief synopsis for the immediately preceding month that contains the following information:

(1) Both for each agency or non-departmental line item and for the City's entire General Fund, the revenues, expenditures, and encumbrances as of the last day of the month immediately preceding the submission of the report, both for that month and for the fiscal year to date.

(2) A comparison of revenues and expenditures to the same period in the preceding fiscal year.

(3) A comparison of revenues and expenditures to the City's adopted budget, as amended through the last day of the month immediately preceding the submission of the report.

(4) An accounts payable aging report.

(5) A report on delinquent tax accounts, provided that no information the disclosure to the public of which Code of Virginia, § 58.1-3 prohibits shall be included.

(6) Economic indicators for the City in graphic or tabular form, including, but not necessarily limited to, the following:

a. The unemployment rate.

b. The dollar value of new single-family, multifamily, and commercial construction, to the extent such information is available to the City.

c. The number and dollar value of new business licenses.

d. The dollar value of retail sales tax revenues.

e. The dollar value of transient lodging tax revenues.

f. The dollar value of meals tax revenues.

g. The dollar value of residential sales, to the extent such information is available to the City.

h. The number of foreclosures, to the extent such information is available to the City.

(7) With regard to activity during the immediately preceding month related to the special reserve established by Section 12-42(b)(1), the following information:

a. All receipts from meals taxes credited to the special reserve pursuant to Section 12-47.

b. All appropriations made from the special reserve and the purpose of each such appropriation.

c. All expenditures made pursuant to such appropriations and the purpose of each such expenditure.

d. The unencumbered and unexpended balance of such appropriations.

e. The unappropriated balance in the special reserve.

The written synopsis shall be posted on the webpage of the Department of Finance no later than five business days following submission of the written synopsis to the Council Chief of Staff.

(Code 2015, § 12-16; Ord. No. 2015-213-207, § 1, 11-9-2015; Ord. No. 2018-100, § 1, 4-9-2018)

Sec. 12-22. Authority to accept payment by commercially acceptable means; service charge.

(a) Pursuant to Code of Virginia, § 2.2-614.1(A), the City may accept payment of any amount due for taxes, interest, penalties, fees, fines, or other charges by any commercially acceptable means, including, but not limited to, checks, credit cards, debit cards, and electronic funds transfers.

(b) Pursuant to Code of Virginia, § 2.2-614.1(B), the City shall add to any amount due a sum, not to exceed the amount charged to the City for acceptance of any payment by a means that incurs a charge to the City or the amount negotiated and agreed to in a contract with the City, whichever is less.

(Code 2015, § 12-17; Ord. No. 2017-023, § 1, 2-27-2017)

Sec. 12-23. Strategic action plan required of each department, agency, and office.

Each agency of the City shall prepare a written strategic action plan consisting of a summary and analysis of the duties, goals, and resources of such agency to be submitted to the Council no later than September 1 of each year. Strategic action plans shall incorporate and align with performance review or audit criteria established according to the City's strategic goals and objectives. If any performance review or audit criteria recommendations are not identified according to the City's strategic goals and objectives, each agency shall incorporate such review or audit recommendations critical to the agency's functions into such agency's strategic action plan. For purposes of this section and Section 12-24, the term "agency" means a department or office of the City, the head of which is appointed by either the City Council or the Chief Administrative Officer, and the Richmond Retirement System.

(Code 2015, § 12-18; Ord. No. 2018-030, § 1, 11-13-2018; Ord. No. 2019-157, § 1, 6-24-2019)

Sec. 12-24. Form of strategic action plan required of each agency.

The strategic action plan required of each agency shall contain, at a minimum, the following:

(1) A purpose statement that provides a brief description of the overall objectives of the agency.

(2) A mission statement that provides a brief description of the goals of the agency.

(3) An organizational chart for each division, program, and position within the agency.

(4) A list of services that the agency provides.

(5) A list of documents that govern the work of the agency, such as Federal, State, or local regulations; major plans; and internal policies.

(6) The agency's anticipated accomplishments for the current fiscal year.

(7) The agency's goals for future fiscal years, including strategic level initiatives, operational objectives, and deliverables and outcomes expected by the agency head.

(8) An overview of the most critical services provided by the agency, including those offered directly to citizens, noting the agency's effectiveness and efficiency in furnishing these services and related supporting data, for the following dates and categories:

a. For services provided in the past, an overview of services provided during the course of the two preceding fiscal years.

b. For services to be provided throughout the current fiscal year, an overview of services projected to be provided during the current fiscal year.

c. For services to be provided in subsequent fiscal years, an overview of services projected to be provided during such fiscal years.

(9) An overview of performance reviews or audits concerning the agency, including any recommendations established according to the City's strategic goals and objectives. Where such recommendations are not established according to the City's strategic goals and objectives, each agency shall incorporate such review or audit recommendations critical to such agency's functions into such agency's strategic action plan.

(Code 2015, § 12-19; Ord. No. 2018-030, § 1, 11-13-2018)

Secs. 12-25—12-41. Reserved.

ARTICLE II. TRUST FUNDS OF THE CITY*

***Cross reference—**Richmond Retirement System trust fund and investments, § 22-82 et seq.

Sec. 12-42. Disposition of funds from sale of real estate and certain insurance proceeds.

(a) *Utility properties.* When payments are made to the City of money arising from the sales of real estate acquired with funds provided by the gas utility, water utility, wastewater utility, stormwater utility or electric utility or from insurance payments for insured structures used by the gas utility, water utility, wastewater utility, stormwater utility or electric utility totally or substantially destroyed by fire or other causes, the Director of Finance shall credit such receipts to the Gas Utility Renewal Fund, Water Utility Renewal Fund, Wastewater Utility Renewal Fund, Stormwater Utility Renewal Fund or Electric Utility Renewal Fund, as the case may be.

(b) *School properties.*

(1) When payments are made to the City of money arising from the sales of real estate owned by the City in accordance with Section 8-11 or transferred to the City in accordance with Code of Virginia, § 22.1-129, the Director of Finance shall credit such receipts, except for the withholding described in subsection (b)(2) of this section, to a special reserve assigned to support public schools in the City. The City Council may appropriate funds from this reserve for the construction of new public school facilities or for the capital repair or renovation of existing active school properties.

(2) The Director of Finance shall withhold from the payments described in subsection (b)(1) of this section the City's actual costs incurred for maintenance, upkeep and sale of the real estate from the time the City assumes control of the property until the property is sold. The City's costs incurred may include, but shall not be limited to, boarding windows and building safety, maintaining grass and landscaping, security,

repairs related to roofing and other internal systems, operating and maintaining pipes and other utilities, reproduction of building plans, closing costs, including attorney's fees, and appraisal services.

(3) When payments of real estate taxes from properties described in subsection (b)(1) of this section are made to the City, the Director of Finance shall credit such receipts to a special reserve assigned to support the educational curriculum and programming of public schools in the City. The City Council may appropriate funds from this special reserve for the general operating budget of public schools as submitted by the School Board of the City of Richmond.

(c) *Parks, recreation and community facilities properties.* When payments are made to the City of money arising from the sales of real estate owned by the City and last used before such sale by the Department of Parks, Recreation and Community Facilities, the Director of Finance shall credit such receipts to a special reserve assigned to fund improvements, enhancements and upgrades to Department of Parks, Recreation and Community Facilities properties. The City Council may appropriate funds from this reserve to fund improvements, enhancements and upgrades to Department of Parks, Recreation and Community Facilities properties.

(d) *Other City properties.* When payments are made to the City of money arising from the sales of all other real estate or from insurance payments for all other insured structures totally or substantially destroyed by fire or other causes, the Director of Finance shall credit such receipts to the reserve fund for permanent public improvements.

(Code 1993, § 11-31; Code 2004, § 42-41; Code 2015, § 12-32; Ord. No. 2008-1-81, § 1, 5-12-2008; Ord. No. 2009-60-83, § 4, 5-26-2009; Ord. No. 2013-22-71, § 1, 5-13-2013; Ord. No. 2013-180-224, § 1, 12-9-2013; Ord. No. 2016-092, § 1, 4-11-2016; Ord. No. 2018-100, § 1, 4-9-2018)

Cross reference—City-owned real estate, Ch. 8.

Sec. 12-43. Date and manner of making interest payments on City debt.

Checks in payment for interest on the City debt shall be issued by the Director of Finance and shall be mailed to the individual address of every registered holder of City bonds on the date that such interest becomes due. However, interest due may be paid upon application in person or by attorney of any person appearing on the books to be the owner of any registered bond or upon the presentation of any matured coupon unless there is some reason to doubt the holder's title, in which event the Director of Finance shall consult the City Attorney before making any payment.

(Code 1993, § 11-32; Code 2004, § 42-42; Code 2015, § 12-33)

Sec. 12-44. Investment of miscellaneous funds.

The funds held and administered by the City known as Richmond Public Library Trust Fund, Confederate Plots Endowment Fund, Edward Peple Memorial Fund, A.B. Goodman Trust Fund, A.H. Hill Memorial Endowment Fund, William Oliver Hayes Trust Fund, and May C. Dabney Memorial Fund are hereby authorized to be invested and reinvested from time to time by the Director of Finance, in such securities as are lawful investments for such funds.

(Code 1993, § 11-33; Code 2004, § 42-43; Code 2015, § 12-34)

Sec. 12-45. Disposition of revenues arising from lease or other use of former school properties.

(a) The Director of Finance shall credit all receipts derived from the use of real estate either owned by the City in accordance with Section 8-11 or transferred to the City pursuant to Code of Virginia, § 22.1-129 to a special reserve assigned to support public schools in the City. The City Council may appropriate funds from this reserve for the construction of new public school facilities or for the capital repair or renovation of existing active school properties.

(b) For purposes of this section:

(1) The term "use" means all leases or other rights to use such real estate granted by the City and all leases or other rights to use such real estate granted by any grantee to which the City has conveyed such real estate; and

(2) The term "receipts" means all payments received by the City in exchange for a lease or other right to use

such real estate granted by the City, all tax or other payments received by the City after the conveyance of such real estate to a grantee by the City and all tax or other payments received by the City resulting from the granting of a lease or other right to use such real estate by the City or by any grantee to which the City has conveyed such real estate.

(Code 2004, § 42-44; Code 2015, § 12-35; Ord. No. 2013-22-71, § 2, 5-13-2013)

Sec. 12-46. Disposition of revenues derived from expiration of partial exemptions from real estate taxation and from certain sales of tax delinquent properties.

(a) Beginning July 1, 2015, when payments are made to the City of real estate taxes arising from the full taxation of formerly partially exempt real estate due to the expiration of such partial exemptions in accordance with former Sections 98-132, 98-135 and 98-138 of the 2004 Code, on an annual basis, the Director of Finance shall credit up to $1,000,000.00 of the difference between the full taxation amount and the partial exemption amount as of the date of such expiration to the Affordable Housing Trust Fund established by Section 16-51 each year after such expiration. On an annual basis, by no later than May 1 of each year, the City Assessor shall provide the Council with the projected amount of real estate taxes arising from the full taxation of formerly partially exempt real estate due to the expiration of such partial exemptions in accordance with former Sections 98-132, 98-135 and 98-138 of the 2004 Code.

(b) Beginning July 1, 2019, and subject to appropriations by the City Council, the Director of Finance shall credit to the Affordable Housing Trust Fund established by Section 16-51 up to $1,000,000.00 of all proceeds from the sale of tax delinquent properties through the program administered by the Office of the City Attorney that remain after all costs of administering such program have been paid.

(Code 2004, § 42-45; Code 2015, § 12-36; Ord. No. 2014-125-143, § 1, 9-8-2014; Ord. No. 2018-238, § 1, 2-11-2019)

Sec. 12-47. Disposition of certain meals tax proceeds.

When the City collects or receives meals taxes levied pursuant to Section 26-669, the Director of Finance shall credit 20.3 percent of the amount so collected to the special reserve assigned to support public schools in the City established by subsection (b)(1) of Section 12-42. Amounts credited to this reserve may be disposed of as provided in subsection (b)(1) of Section 12-42.

(Code 2015, § 12-37; Ord. No. 2018-017, § 1, 2-12-2018; Ord. No. 2018-140, § 1, 5-14-2018)

Secs. 12-48—12-60. Reserved.

ARTICLE III. CITY BONDS*

***Charter reference—**City bonds generally, Ch. 7B.

State law reference—Public Finance Act of 1991, Code of Virginia, § 15.2-2600 et seq.

Sec. 12-61. Registration and transfer; duties of registrar and Director of Finance.

(a) The Director of Finance will provide for the establishment of books for the registration and transfer of each issue of City bonds. The Director of Finance may enter into an agreement with a bank that is acting as paying agent for a particular issue of bonds to provide the registration and transfer services for that issue. When such an agreement exists, the Director of Finance will cause books for the registration and transfer of that particular issue of bonds to be kept at the principal office of the fiscal agent and registrar. The person responsible for the registration and transfer of each issue of bonds is referred to as the "registrar therefor."

(b) On presentation to the registrar therefor for such purposes by any bearer of a particular issue of coupon bonds, with registration provisions, the Director of Finance will cause such registrar therefor to register in such books, in the name of the bearer or nominee, the ownership, as to principal or as to principal and interest, of any such presented coupon bonds, and such registration shall be noted on the bond. After such registration and notation, no transfer of any such coupon bond registered otherwise and as payable to the bearer shall be valid unless evidenced by a written instrument of transfer, in a form satisfactory to the registrar therefor, duly executed by the registered owner in person or by duly authorized agents, but any such coupon bonds that are registered may be discharged from registration and transferability by delivery, may be restored by a transfer to the bearer similarly registered and noted, and after such transfer to the bearer such bond shall be a bearer bond. Any such coupon bond may again,

from time to time, in like manner, be registered as to principal or as to principal and interest or be transferred to the bearer.

(c) The bearer of any coupon bond which at the time is not registered or is registered as payable to the bearer and the registered owner of any registered bond or any coupon bond registered as to principal otherwise than to bearer may, at any time, surrender the bond at the office of the registrar therefor; in the case of coupon bonds with all unmatured coupons attached, and in case of registered bonds or coupon bonds registered as to principal, with instruments of transfer satisfactory to such registrar therefor. Such bearer shall be entitled to receive in exchange therefor an equal aggregate principal amount of bonds of the same series, interest rate and maturity, of any one or more of the forms, the issuance of which have been provided for in this section, and the Director of Finance will issue and deliver at the office of such registrar the bonds necessary to make such an exchange. Any registered bond may be transferred pursuant to its provisions at the principal office of the registrar therefor by surrender of such bonds for cancellation, accompanied by a written instrument of transfer, in a form satisfactory to such registrar therefor, duly executed by the registered owner in person or by duly authorized agent, and thereupon the Director of Finance will issue and deliver at the office of the registrar therefor, in the name of the transferee, a new registered bond of the same series, when such forms are available, or the same bond registered in the name of the transferee duly noted thereon. When a new registered bond form is used, it shall be of the same series, form, interest rate, principal and maturity, dated so there shall result no gain or loss of interest as a result of such transfer.

(d) In every case of an exchange of bonds and of a transfer of any registered bond or coupon bond registered as to principal, the surrendered bond or coupon, if any, shall be held by the registrar therefor. On an issue where there are provided blank registered bonds, all registered bonds surrendered for exchange or transfer shall be canceled. Coupon bonds or coupon sheets, which have been removed from coupon bonds registered as to principal and interest, shall be held by the registrar therefor, who shall make provisions satisfactory to the Director of Finance for the safekeeping of such coupon bonds or coupon sheets.

(e) Upon making a request for an exchange of bonds as authorized in this section, tender of the estimated cost of effecting such exchange shall be made by the person making the request. Upon delivery of the bonds so exchanged, any surplusage shall be returned to the bond owner or agent, or any additional costs of making such exchange shall be paid by the bond owner or agent.

(Code 1993, § 11-51; Code 2004, § 42-76; Code 2015, § 12-61)

Sec. 12-62. Presumption of ownership.

The person appearing on the books in the Office of the Director of Finance as the owner of a registered bond shall be deemed the owner thereof as it regards the City, and all payments to such registered owner or personal representative by the City shall be valid and conclusive.

(Code 1993, § 11-52; Code 2004, § 42-77; Code 2015, § 12-62)

Sec. 12-63. Effect of sale or disposal.

If the person appearing on the books of the Director of Finance, as maintained by the registrar, as the owner, as set out in Section 12-62, shall be bona fide and for valuable consideration sell, pledge or otherwise dispose of such bond to another and deliver it with a power of attorney authorizing the transfer thereof on the books of the Director of Finance, as maintained by the Registrar, the title of the former in the bond, both at law and equity, shall vest in the latter for the whole amount of the bond or so much thereof as may be necessary to effect the purpose of the sale, pledge, or other disposition, and it shall so vest not only as between the parties themselves, but also as against the creditors of and subsequent purchasers from the former subject only to Section 12-62.

(Code 1993, § 11-53; Code 2004, § 42-78; Code 2015, § 12-63)

Sec. 12-64. Transfer upon bond book; cancellation and reissuance.

Upon the delivery of a bond referred to in this article, a transfer may be made on the books of the Director of Finance, as maintained by the Registrar therefor, either of the whole amount or any part thereof by the person appearing on the books as the owner or by another having a power of attorney duly authenticated authorizing such transfer. No transfer shall be made on the books within ten days next preceding the date upon which any interest payable on the bond so offered for transfer becomes due.

(Code 1993, § 11-54; Code 2004, § 42-79; Code 2015, § 12-64)

Sec. 12-65. Retention of canceled bonds.

The Director of Finance may enter into a written agreement with any bank or trust company acting as agent of the City for the payment of its bonds or interest coupons for the destruction, by burning, pulverizing or shredding, of bonds and interest coupons which are paid and canceled by such paying agent or by a copaying agent. Paid and canceled bonds and coupons shall be destroyed by such agent within one year after the date of payment. The agreement shall substantially provide, among such other stipulations and provisions as may be agreed upon, that the agent shall furnish the City periodically or from time to time with a written certificate of destruction to be in the form as prescribed by the Auditor of Public Accounts of the State and acknowledged in the manner prescribed by law for the acknowledgment of deeds and which certificate shall contain a description of bonds and interest coupons destroyed, including, with respect to bonds, designation or purpose of issue and series, date of issue, bond numbers, denomination, maturity date and total principal amount; and with respect to interest coupons designation or purpose of issue and series, date of bonds to which such coupons appertain, maturity date of such coupons and as to each such maturity date the denomination, quantity and total amount.

(Code 1993, § 11-55; Code 2004, § 42-80; Code 2015, § 12-65)

Sec. 12-66. Replacement of lost bond or coupon; advertisement of lost bond; indemnity bond.

When any City bond or coupon shall be lost by the holder thereof, the holder may file in the Office of the Director of Finance an affidavit setting forth the time, place and circumstances of the loss and execute a bond to the City and to the paying agents of such lost bond, with corporate surety, in a form approved by the City Attorney conditioned to indemnify all persons against any loss in consequence of issuing a new registered bond in place of the bond so lost or payment of the coupon so lost, and thereupon a new registered bond may be issued by the Director of Finance to the holder and any lost coupon may be paid by the Director of Finance.

(Code 1993, § 11-56; Code 2004, § 42-81; Code 2015, § 12-66)

Secs. 12-67—12-90. Reserved.

ARTICLE IV. FEES FOR CITY SERVICES*

***Charter reference—**Authority of City to impose and collect reasonable fees for rendering special City services, § 2.05(g).

Sec. 12-91. Reproduction of City documents.

A fee shall be charged and paid into the City treasury for furnishing maps or reproductions or copies of maps, photostats, photographs, prints, copies of the building code, manuals, land books, the Charter and this Code, and all similar documents furnished by the City. The fee shall be fixed by the Chief Administrative Officer and shall be substantially equal to the cost incurred in supplying such articles and documents. No fee shall be charged for furnishing such articles and documents to and for the use of any department, bureau, board, commission, office or agency of the City, State or Federal government, unless otherwise required by the Chief Administrative Officer. The fee shall be paid and collected at the time any such article or document is furnished or supplied.

(Code 1993, § 11-111; Code 2004, § 42-111; Code 2015, § 12-91; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 12-92. Copy of offense report.

Whenever a police officer makes out an offense report, the police officer may provide the victim of such offense or a person whom such officer in such officer's discretion deems an appropriate representative of such victim with a carbon or similarly reproduced copy of such offense report at the time such officer takes the report of the offense. For a copy of a report of the offense obtained at any subsequent time, a fee of $5.00 shall be charged and paid into the City treasury to aid in defraying the cost of compiling a police report and providing the report; if more than one copy is obtained at any one time, a fee of $1.00 per page shall be charged and paid into the City treasury for any additional copy of the same report.

(Code 1993, § 11-112; Code 2004, § 42-112; Code 2015, § 12-92)

Sec. 12-93. Copy of State accident report.

A fee of $5.00 shall be charged and paid into the City treasury to aid in defraying the cost of copying a State

accident report and providing the report to any person entitled to obtain a copy of such report under Code of Virginia, Title 46.2, Ch. 3, Art. 11 (Code of Virginia, § 46.2-371 et seq.).

(Code 1993, § 11-113; Code 2004, § 42-113; Code 2015, § 12-93)

State law reference—Authority to set fee, Code of Virginia, § 46.2-381.

Sec. 12-94. Reservation of picnic shelter.

A fee of $10.00 per hour, with a four-hour minimum, shall be charged for reserving for use any picnic shelter located in any public park of the City.

(Code 1993, § 11-114; Code 2004, § 42-114; Code 2015, § 12-94; Ord. No. 2005-97-105, § 1, 5-31-2005; Ord. No 2020-076, § 2, 5-11-2020)

Sec. 12-95. Athletic activities; adult leagues; tennis tournaments; tennis camps; softball tournaments.

(a) The fee schedule applicable to athletic activities when the activities are conducted by an organized adult athletic league and tournaments shall be as follows:

(1)	Softball, per hour, including practice (exclusive of tournaments)	$16.00
(2)	Baseball, per game	$30.00
(3)	Lacrosse, per game	$30.00
(4)	Football, per game	$30.00
(5)	Rugby, per game	$30.00
(6)	Soccer, per game	$30.00
(7)	Basketball, per hour (in gymnasium)	$50.00
(8)	Outdoor light fee, per field	$45.00
(9)	Volleyball tournaments (outdoor), per court, per day	$35.00

(b) Tennis fees shall be as set forth in this subsection. In addition, a fee for each hour or fraction thereof may be charged and paid into the City treasury for using after sunset each tennis court maintained and operated by the City, to aid in defraying the cost of making tennis courts available for use.

(1)	Fee for conducting a tennis tournament on any court owned and maintained by the City:		
	a.	Per court, per day	$35.00
	b.	For nights and weekends (eight-hour period or any fraction thereof)	$50.00
(2)	Fee for attending a tennis camp sponsored for youths by the Department of Parks, Recreation and Community Facilities, per session		$42.00

(c) The fee for conducting a softball tournament will be $56.00 per field, per day.

(d) All fees imposed pursuant to this section shall be paid into the City treasury to defray the cost of maintaining such facilities.

(e) Pine Camp Art and Recreation Center fees shall be as follows. Staffing (supervision and custodial) costs will apply during nonoperating hours at an overtime rate. Technical assistance and equipment rental fees may apply. Rehearsal time may be scheduled based on the building's availability within the allotted time.

(1)	Theater/backstage area:

	a.	For use up to five hours	$380.00
	b.	For use up to five hours or more	$755.00
(2)	Nonrefundable deposit (30 days in advance)		$125.00
(3)	Dance studio, per two hours		$55.00
(4)	Group social functions:		
	a.	Up to 50 people for use up to four hours	$175.00
	b.	Up to 100 people for use up to four hours	$275.00
	c.	Up to 200 people for use up to eight hours	$600.00
(5)	Staffing costs for outside business hours, per hour		$26.00

(f) Portions of the Hickory Hill Community Center, equipment and services related thereto may be used upon the approval of the Chief Administrative Officer or his designee and the payment of the rental fees as follows:

(1)	Auditorium:		
	a.	Every four hours	$325.00
	b.	For a full day	$675.00
(2)	Dining area, for every four hours		$275.00
(3)	Outside special field event, for a full day		$650.00
(4)	Outside field sport, per game		$15.00
(5)	Break out rooms, for every four hours		$125.00
(6)	Kitchen facility, per event		$75.00
(7)	Civic association meetings, for every two hours		$25.00
(8)	Setup fee, per event		$65.00
(9)	TV/VCR, per day		$30.00
(10)	P/A system, per day		$30.00
(11)	Round tables, per day		$8.50
(12)	Permit processing fee, per permit		$15.00

(Code 1993, § 11-115; Code 2004, § 42-115; Code 2015, § 12-95; Ord. No. 2005-97-105, § 1, 5-31-2005; Ord. No. 2006-85-150, § 1, 5-30-2006; Ord. No. 2006-90-93, § 4, 4-24-2006; Ord. No. 2008-56-116, § 1, 5-27-2008)

Sec. 12-96. Swimming course of instruction.

A fee shall be charged and paid into the City treasury to aid in defraying the cost of conducting courses of instruction in swimming to be given in the public pools in the City. Such fee shall be used in defraying the cost of providing facilities and staff for such instruction. The swimming instruction fees are as follows:

Fee for course of instruction in swimming, per lesson per day		$5.50
Exceptions:		
(1)	Senior water aerobics, every two months	$15.00
(2)	Lifeguard classes	$87.00

(3)	Group summer swim, per day per child	$1.00
(4)	Swim team, depending upon the participation level	$110.00--$385.00

(Code 1993, § 11-116; Code 2004, § 42-116; Code 2015, § 12-96; Ord. No. 2005-97-105, § 1, 5-31-2005)

Sec. 12-97. Investigation of applicant for special police officer.

A fee of $590.00 shall be charged and paid into the City treasury to aid in defraying the costs of conducting an investigation of the character and qualifications of each person whom an applicant (an individual, firm or corporation) requests the Chief of Police to appoint a special police officer. However, no fee shall be charged to Virginia Union University, and no fee shall be charged to an applicant who requests the Chief of Police to appoint as a special police officer a City police officer who has retired from City service within 180 days of the application date. Such fee shall, if the person so investigated is found qualified by the Chief of Police to perform the duties of a special police officer, entitle the person upon appointment as a special police officer to serve at one location of the applicant, and a permit shall be issued for such person to perform the duties of a special police officer at one location upon appointment. For each additional location that the applicant desires such person so appointed as a special police officer to serve, additional permits for each such location in the City may be obtained upon the payment of a fee of $10.00 for each such permit.

(Code 1993, § 11-117; Code 2004, § 42-117; Code 2015, § 12-97)

Sec. 12-98. Attendance of special police officer at training course.

A fee of $50.00 shall be charged and paid into the City treasury to defray the costs of inspection of a person attending any training course required by the Chief of Police to be completed by a person appointed or requesting appointment as a special police officer pursuant to an application for appointment of a special police officer by an individual, firm or corporation.

(Code 1993, § 11-118; Code 2004, § 42-118; Code 2015, § 12-98)

Sec. 12-99. Visas and similar documents.

A fee of $25.00 shall be charged and paid into the City treasury to aid in defraying the cost of conducting a records check for police clearances requisite to obtaining a visa or similar document.

(Code 1993, § 11-120; Code 2004, § 42-120; Code 2015, § 12-99)

Sec. 12-100. Funeral escorts.

In order to promote public safety and the orderly conduct of funerals, the Chief of Police, or his or her designee, shall, upon request, cause a police escort to be provided by off-duty personnel for funeral processions traveling along the streets in the City. Such requests shall be in writing and forwarded to the Department of Police 24 hours in advance of the funeral. The person requesting the funeral escort shall pay the standard hourly off-duty rate, as determined by the Department of Police, directly to the police officer providing the escort.

(Code 1993, § 11-121; Code 2004, § 42-121; Code 2015, § 12-100)

Sec. 12-101. Recordation of fingerprint impressions.

A fee of $5.00 shall be charged and paid into the City treasury for recording fingerprint impressions on fingerprint cards. Such fee shall aid in defraying the costs of providing such service. No fee shall be charged an applicant for City employment, nor shall a fee be charged for such service when performed at the request of an agency of the City government.

(Code 1993, § 11-122; Code 2004, § 42-122; Code 2015, § 12-101)

Sec. 12-102. Police and fire protection; collection and disposal of refuse—Service charges generally.

For providing police and fire protection and for collection and disposing of refuse or disposing of refuse delivered to a facility maintained and operated by the City for disposition, there is imposed a fee or service charge, which fee or service charge shall be determined and fixed as the actual expenditure of the City for providing any or all of such services. The fee or service charge shall be collected from the owner or from the party in possession of the real estate for which such services are provided. Such service charge shall be fixed by dividing the expenditures

made by the City during the preceding year for such services by the assessed fair market value of all of the real estate within the City, including nontaxable property and including real estate assessed by the State Corporation Commission, which fair market value shall be expressed in hundreds of dollars.

(Code 1993, § 11-123; Code 2004, § 42-123; Code 2015, § 12-102)

Sec. 12-103. Police and fire protection; collection and disposal of refuse—Service charge upon certain properties exempt from taxation.

(a) *Service charges generally.* As authorized in Code of Virginia, §§ 58.1-3400 and 58.1-3403, a fee or service charge is hereby imposed upon and shall be collected from the owners of faculty and staff housing of educational institutions and real property owned by the Commonwealth within the City. The service charge shall not be applicable to public roadways or property held for future construction of such roadways. For purposes of calculating the service charge, the cost of public school education shall be included in such amount in determining the service charge imposed on faculty and staff housing of an educational institution. The expenditures shall exclude any amount received from Federal or State grants specifically designated for furnishing police and fire protection and for collection and disposal of refuse and assistance provided to localities pursuant to Code of Virginia, Title 9.1, Ch. 1, Art. 8 (Code of Virginia, § 9.1-165 et seq.). The expenditures for services not provided for certain real estate shall not be considered in the calculations of the service charge for such real estate, nor shall such expenditures be applicable when a service is currently funded by another service charge. For purposes of this section, the valuation of exempt real estate shall not take into account artistic and historical significance.

(b) *Buildings with land occupied by faculty and staff housing of educational institutions.* Buildings with land actually occupied by faculty and staff housing of educational institutions, together with the additional adjacent land reasonably necessary for the convenient use of any such building located within the City, shall be exempt from the service charge provided in this section if the buildings are:

(1) Lawfully owned and held by churches or religious bodies and wholly and exclusively used for religious worship or for the residence of the minister of any church or religious body or for use as a religious convent, nunnery, monastery, cloister or abbey; or

(2) Used or operated exclusively for nonprofit private educational or charitable purposes, other than faculty and staff housing of any such educational institution.

(c) *Calculation of service charge for faculty and staff housing of educational institutions.* In the case of faculty and staff housing, the service charge shall be based on the assessed value of the tax exempt real estate and the amount which the City shall have expended in the year preceding the year of the assessment of such charge, for the purpose of furnishing police and fire protection, and for the collection and disposal of refuse. The service charge shall not exceed 50 percent of the real estate tax rate and shall be fixed by dividing the expenditures as calculated in this subsection by the assessed fair market value of all of the real estate within the City, except real estate owned by the United States government or any of its instrumentalities, expressed in hundreds of dollars, including nontaxable property as listed in the land book of the City by the City Assessor. The resulting rate shall then be applied to the assessed value of the tax exempt property.

(d) *Calculation of service charge for property owned by the Commonwealth.* In the case of property owned by the Commonwealth, the service charge shall be based on the assessed value of the State-owned tax exempt real estate and the amount which the City shall have expended in the year preceding the year of the assessment of such charge, for the purpose of furnishing police and fire protection, and for the collection and disposal of refuse. The service charge rate for State-owned property shall be determined by dividing the expenditures as calculated in this subsection by the assessed fair market value of all real estate within the City, except real estate owned by the United States government or any of its instrumentalities, expressed in hundreds of dollars, including nontaxable property as listed in the land book of the City by the City Assessor. The resulting rate shall then be applied to the assessed value of the tax exempt property. For purposes of this subsection, the term "property owned by the Commonwealth" shall not include hospitals or educational institutions. As authorized by Code of Virginia, § 58.1-3403, a service charge shall be levied on faculty and staff housing of State educational institutions, regardless of the portion of State-owned property located within the City.

(Code 1993, § 11-124; Code 2004, § 42-124; Code 2015, § 12-103; Ord. No. 2009-30-54, §§ 1, 2, 4-13-2009)

State law reference—Authority to adopt, Code of Virginia, §§ 58.1-3400, 58.1-3403.

Sec. 12-104. Police and fire protection; collection and disposal of refuse—Payment of portion of fee or service charge.

The fee or service charge imposed in Sections 12-102 and 12-103 shall be apportioned as to the amounts budgeted for the furnishing of fire protection and police protection and for the collection and disposal of refuse. Any real estate exempted from taxation under State law but subject to the imposition of a fee or service charge imposed in this article as authorized under Code of Virginia, §§ 58.1-3400 and 58.1-3403 from or for which the City does not collect and does not dispose of refuse shall be exempt from the payment of such proportion of the service charge imposed in Sections 12-102 and 12-103 as represents the proportionate amount of the expenditure used for computing such fee or service charge attributable to the collection and disposal of refuse. Real estate from which the City does not collect refuse but for which it does provide disposal services and for which the City imposes and collects a disposal fee shall not be assessed the portion of the fee or service charge imposed in Sections 12-102 and 12-103 attributable to collection and disposal of refuse.

(Code 1993, § 11-125; Code 2004, § 42-125; Code 2015, § 12-104)

Sec. 12-105. Police and fire protection; collection and disposal of refuse—Time of payment.

The service charges imposed in Sections 12-102 and 12-103 shall be due and payable on June 15 for the six-month period commencing January 1 and ending June 30, and on December 15 for the period commencing July 1 and ending December 31.

(Code 1993, § 11-126; Code 2004, § 42-126; Code 2015, § 12-105)

Sec. 12-106. Fee for care of juvenile at juvenile care facility; community service option.

(a) If a minor is taken into custody for a violation of the juvenile curfew restrictions established under Chapter 19, Article VIII, and it is necessary for the minor to be taken to a juvenile care facility operated by or on behalf of the City, the parent or legal guardian of the minor shall be assessed a fee of $16.00 per hour for the period of time the minor remains at the juvenile care facility awaiting release to the adult responsible for the minor. The fee shall be assessed and prorated in 15-minute increments.

(b) Community service options shall be offered as an alternative to payment of the fee for care of the juvenile, for any adult who is unable to pay the fee or who otherwise requests to be allowed to perform community service in lieu of payment of the fee. All community service options shall require that the adult and the minor who violated the curfew restrictions perform the community service together. The number of hours of community service to be performed shall be set in reasonable proportion to the total fee owed, with a minimum community service obligation of four hours. If the adult and the minor fail to perform the community service assignment, the adult shall be responsible for payment of the fee in the amount established pursuant to subsection (a) of this section.

(Code 1993, § 11-128; Code 2004, § 42-128; Code 2015, § 12-107)

Editor's note—Ord. No. 99-187-179, adopted Jan. 14, 1999, repealed former § 12-106, which pertained to exemption of property owned by certain political subdivisions and derived from Code 1993, § 11-127; Code 2004, § 42-127.

Sec. 12-107. Nonresident fee.

(a) Each person who does not reside in the City shall, for the privilege of participating in the Department of Parks, Recreation and Community Facilities athletic activities or any classes, be charged an additional fee of $20.00 per class, in order to defray the cost of providing the classes. The fee shall be paid into the City treasury.

(b) Any person renting any facility, park or equipment from the Department of Parks, Recreation and Community Facilities who does not reside in the City shall, for the privilege of such rental, pay an additional fee equal to ten percent of the rental fee to the City treasury.

(Code 1993, § 11-129; Code 2004, § 42-129; Code 2015, § 12-108)

Sec. 12-108. After school programs.

Each person who registers to participate in the Department of Parks, Recreation and Community Facilities formal after school programs shall be charged a fee of $10.00 in order to defray the cost of providing the after

school programs. The fee shall be paid into the City treasury.

(Code 1993, § 11-130; Code 2004, § 42-130; Code 2015, § 12-109)

Sec. 12-109. Reduction of fees for use of public grounds or public facilities.

Reduction of rental or usage fees will not be granted for individuals, organizations and groups using any public grounds or public facilities for events that generate revenue.

(Code 1993, § 11-131; Code 2004, § 42-131; Code 2015, § 12-110)

Sec. 12-110. Summer camps and recreation programs.

The Department of Parks, Recreation and Community Facilities may charge a registration and processing fee to persons who register to participate in the summer camps, athletic leagues and recreation programs of the Department of Parks, Recreation and Community Facilities. The fee charged shall be used to defray the cost of providing these summer camps, athletic leagues and recreation programs, which fee shall be paid into the City treasury.

(Code 1993, § 11-132; Code 2004, § 42-132; Code 2015, § 12-111)

Sec. 12-111. Evidence processing.

A fee of $25.00 shall be charged and paid into the City treasury to aid in defraying the cost of receiving, processing and destroying drug evidence that is seized and submitted to the Department of Police by any private security company or any agent thereof.

(Code 1993, § 11-133; Code 2004, § 42-133; Code 2015, § 12-112)

Sec. 12-112. Juvenile Detention Home housing fee.

The Department of Justice Services may house in the City juvenile detention home juvenile detainees from jurisdictions other than the City when space is available in such facility. A fee of $125.00 per juvenile per night shall be charged to and paid into the City treasury by such jurisdiction for the housing of any such juvenile.

(Code 1993, § 11-134; Code 2004, § 42-134; Code 2015, § 12-113; Ord. No. 2006-147-162, § 1, 6-12-2006)

Sec. 12-113. Criminal and traffic case court costs—Fee for courthouse security personnel.

The City shall assess a fee of $5.00 as part of the costs in each criminal or traffic case in the District Court of the City or the Circuit Court of the City in which the defendant is convicted of a violation of any statute or ordinance. The assessment shall be collected by the clerk of the court in which the case is heard, remitted to the Director of Finance, and held by the Director of Finance subject to appropriation by the City Council to the Sheriff of the City for the funding of courthouse security personnel.

(Code 1993, § 11-135; Code 2004, § 42-135; Code 2015, § 12-114)

State law reference—Fee authorized, Code of Virginia, § 53.1-120.

Sec. 12-114. Processing fee for individuals admitted to the City jail following conviction.

The City shall assess a $25.00 processing fee on any individual admitted to the City jail following conviction. The fee shall be ordered as a part of court costs collected by the clerk, shall be deposited with the Director of Finance, and shall be used by the Sheriff of the City to defray the costs of processing arrested persons into the City jail.

(Code 1993, § 11-136; Code 2004, § 42-136; Code 2015, § 12-115)

State law reference—Processing fee authorized, Code of Virginia, § 15.2-1613.1.

Sec. 12-115. Criminal and traffic case court costs—Fee for Police Training Academy.

The City shall assess a fee of $1.00 as part of the costs in each criminal or traffic case in the District Court of the City or the Circuit Court of the City in which the defendant is convicted of a violation of any statute or ordinance. The assessment shall be collected by the clerk of the court in which the case is heard, remitted to the Director of Finance, and held by the Director of Finance subject to appropriation by the City Council to the Chief of Police of the City for the funding of the City's Police Training Academy.

(Code 1993, § 11-137; Code 2004, § 42-137; Code 2015, § 12-116)

Sec. 12-116. User fee for use of public safety radio communications system.

A monthly user fee of $15.00 shall be charged to and paid into the City treasury by each agency or jurisdiction not a component part of the City that accesses and uses the public safety radio communications system maintained by the Department of Public Works.

(Code 2004, § 42-138; Code 2015, § 12-117; Ord. No. 2004-176-166, § 1, 6-28-2004)

Sec. 12-117. Fee for health permit for hotels, restaurants, summer camps and campgrounds required to be inspected pursuant to State law.

A fee of $25.00 shall be charged to each applicant for a permit issued through the District Health Department pursuant to Code of Virginia, § 35.1-13, 35.1-14, 35.1-16 or 35.1-17. Such fee shall be collected by the District Health Department from the applicant prior to the issuance of such permit, shall be in addition to any fee charged by the State for such permit and shall be paid into the City treasury to defray the costs of the inspections and reviews required prior to the issuance of such permit. The District Health Director shall establish a procedure for administering the collection of the fee required by this section.

(Code 2004, § 42-139; Code 2015, § 12-118; Ord. No. 2005-96-104, § 1, 5-31-2005)

Sec. 12-118. Emergency medical and fire prevention services for special events.

A fee of $45.00 per employee per hour shall be assessed by the City, through the Department of Fire and Emergency Services, for each employee who provides emergency medical services or fire prevention services, or both, at a special event. The City, through the Chief of Fire and Emergency Services or the written designee thereof, shall enter into a contract with the holder of the special event for the provision of the services and the payment of the fees. A minimum of four hours per employee shall be charged for each special event for which such services are requested. Such fee shall be prorated for the time for which such services are actually rendered, but in no case shall the fee be less than an amount equal to four hours per employee. For purposes of this section, the term "special event" shall mean an event in the City that is organized to attract participants or spectators from the public.

(Code 2004, § 42-140; Code 2015, § 12-119; Ord. No. 2013-162-149, §§ 1--3, 7-22-2013)

Sec. 12-119. Rates and discounts for parking facilities operated by the City.

(a) The rates and discounts for parking in the following City-owned off-street parking facilities shall be as follows:

(1) *5th and Marshall Street Garage.*

a.	Monthly rate unreserved		$110.00
b.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$20.00
c.	Special event and night rates		$5.00 to $12.00
d.	A ten percent per month discount for accounts with 50 or more spaces applies to this facility.		

(2) *7th and Marshall Street Garage.*

a.	Monthly rates unreserved	$110.00
b.	Monthly rates reserved	$125.00
c.	Daily rates:	

	1.	Per hour	$5.00
	2.	Maximum	$20.00
d.	Special event and night rates		$7.00 to $12.00
e.	A ten percent per month discount for accounts with 50 or more spaces applies to this facility.		

(3) *6th and Franklin Street Garage.*

a.	Monthly rates unreserved	$135.00
	Buddy parking (shared space)	$95.00
b.	Monthly rates reserved	$150.00
c.	Special event and night rates	$7.00 to $12.00
d.	A ten percent per month discount for accounts with 50 or more spaces applies to this facility.	

(4) *5th and Broad Street Lot.*

a.	Monthly rates unreserved		$110.00
b.	Monthly rates reserved		$140.00
c.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$20.00
d.	Special event and night rates		$8.00 to $12.00
e.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.		

(5) *7th and Grace Street Garage.*

a.	Monthly rates unreserved		$135.00
b.	Monthly rates reserved		$150.00
c.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$25.00
d.	Special event and night rates		$7.00 to $12.00
e.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.		

(6) *2nd and Grace Street Garage.*

a.	Monthly rates unreserved		$70.00
b.	Daily rates:		
	1.	Per hour	$1.50
	2.	Maximum	$7.00
c.	Special event and night rates		$6.00 to $12.00
d.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.		

(7) *Biotech Garage at 600 North 5th Street.*

a.	Monthly rates unreserved	$80.00
b.	Special event and night rates	$7.00 to $12.00
c.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.	

(8) *Shockoe Plaza Garage at 1310 D East Canal Street.*

a.	Monthly rates unreserved		$110.00
b.	Buddy spaces (shared space)		$85.00
c.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$18.00
d.	Special event and night rates		$7.00 to $12.00
e.	A ten percent per month discount for accounts with 50 or more spaces applies to this facility.		

(9) *901 East Canal Street Garage.*

a.	Monthly rates unreserved		$110.00
b.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$20.00
c.	Special event and night rates		$7.00 to $12.00
d.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.		

(10) *1500 East Franklin Street Lot.* The monthly rates unreserved shall be $40.00.

(11) *1533 East Main Street Lot.*

a.	Monthly rates unreserved		$70.00
b.	Daily rates:		
	1.	First hour	$0.00
	2.	Per hour after first hour	$1.00
	3.	Maximum	$5.00
c.	Special event and night rates:		
	1.	First hour	$0.00
	2.	Per hour after first hour	$1.00
	3.	Maximum	$5.00

(12) *1520 East Main Street Lot.* This lot is restricted to City employees.

(13) *1519 East Main Street Lot.*

a.	Monthly rates unreserved		$70.00
b.	Daily rates:		
	1.	First hour	$0.00
	2.	Per hour after first hour	$1.00
	3.	Maximum	$5.00
c.	Special event and night rates:		
	1.	First hour	$0.00
	2.	Per hour after first hour	$1.00
	3.	Maximum	$5.00

(14) *Adams and Grace Street Lots.*

a.	Monthly rates unreserved	$80.00
b.	Monthly rates reserved	$95.00
c.	Daily rates	$8.00
d.	Special event and night rates	$7.00

(15) *7 South Crenshaw Street Garage.*

a.	Monthly rates unreserved:		
	1.	Day rate 7:00 a.m. to 6:00 p.m.	$20.00
	2.	Evening rate 6:00 p.m. to 7:00 a.m.	$20.00
	3.	24-hour rate	$35.00

b.	Daily rate:		
	1.	Day rate 7:00 a.m. to 6:00 p.m., any part of that period	$1.00
	2.	Evening rate 6:00 p.m. to 7:00 a.m., any part of that period	$1.00

(16) *16 South Colonial Street Garage.*

a.	Monthly rates unreserved:		
	1.	Day rate 7:00 a.m. to 6:00 p.m.	$20.00
	2.	Evening rate 6:00 p.m. to 7:00 a.m.	$20.00
	3.	24-hour rate	$35.00
b.	Daily rate:		
	1.	Day rate 7:00 a.m. to 6:00 p.m., any part of that period	$1.00
	2.	Evening rate 6:00 p.m. to 7:00 a.m., any part of that period	$1.00

(17) *Coliseum Garage.*

a.	Monthly rates unreserved		$100.00
b.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$18.00
c.	Special event and night rates		$7.00 to $12.00
d.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.		

(18) *8th and Clay Street Lot.*

a.	Daily rates:		
	1.	Per hour	$1.00
	2.	Maximum	$5.00
b.	Special event and night rates:		
	1.	Per hour	$1.00
	2.	Maximum	$5.00

(19) *17th Street Farmer's Market Lot at 50 North 17th Street.* The special event and night rates shall be $5.00.

(20) *17th Street Farmer's Market Lot at 100 North 17th Street.* The daily rates and special event and night rates shall be $5.00.

(21) *17th Street Farmer's Market Lot at 212 North 18th Street.*

a.	Monthly rates unreserved	$50.00
b.	Monthly rates reserved	$65.00
c.	Special event and night rates	$5.00
d.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.	

(22) *Gateway Garage at 800 East Canal Street.*

a.	Monthly rates unreserved		$130.00
b.	Monthly rates reserved		$165.00
c.	Daily rates:		
	1.	Per hour	$5.00
	2.	Maximum	$20.00
d.	Special event and night rates		$8.00 to $12.00
e.	A ten percent per month discount for accounts with 50 or more reserved or unreserved spaces applies to this facility.		

(b) Monthly rates apply Monday through Friday from 6:00 a.m. to 6:00 p.m. Pursuant to Code of Virginia, § 15.2-105, any person failing to pay any account due the City under this section on or before its due date shall incur a penalty thereon of $10.00 or an amount not exceeding ten percent, which shall be imposed and collected as provided in Code of Virginia, § 15.2-105. Special event and night rates apply Monday through Friday from 6:00 p.m. to 6:00 a.m. and all day Saturday and Sunday. The Director of Public Works shall fix the hours of operation for each facility in accordance with this section. In cases for which this section establishes a range of fees or rates, the Chief Administrative Officer is authorized to change such fees or rates in the Chief Administrative Officer's discretion within such range.

(Code 2004, § 42-141; Code 2015, § 12-120; Ord. No. 2014-66-116, §§ 1, 2, 5-27-2014; Ord. No. 2015-76-106, § 1, 5-15-2015; Ord. No. 2015-196-192, §§ 1, 2, 9-28-2015; Ord. No. 2016-050, §§ 1, 2, 5-13-2016; Ord. No. 2018-086, § 1, 5-4-2018; Ord. No. 2019-064, § 1, 5-13-2019)

Sec. 12-120. Fees for use of bicycle share system.

(a) The City shall provide a bicycle share system in which bicycles are made available for shared use to individuals on a short-term basis. All monies collected for the use of the bicycles that are a part of the bicycle share system shall be deposited in the City treasury. It is the intent of the City that the monies collected pursuant to this section be appropriated annually to pay for the costs of operating the bicycle share system.

(b) Users of the bicycle share system shall be classified as "annual users," "monthly users," "occasional users," or "group users." An annual user or group user shall pay the applicable fee annually. A monthly user shall pay the fee monthly. An occasional user shall pay the applicable fee corresponding to the pass the occasional user desires to purchase. For purposes of this section, a "group user" is an organization purchasing a pass on an annual basis for the use of the organization's employees that allows the use of a single bicycle and is transferrable among the organization's employees. Bicycle share system fees are as follows:

(1)	Annual user pass	$96.00
(2)	Monthly user pass	$18.00

(3)	Occasional user pass:		
	a.	One-way trip	$1.75
	b.	24-hour/one-day	$6.00
	c.	Seven-day/weekly	$18.00
	d.	Group user pass	$288.00

(c) All fees for the use of the bicycles that are a part of the bicycle share system shall be as set forth in this section. Fees for the use of the bicycle share system shall consist of a user fee entitling the user to use a bicycle for 45 minutes on a weekday and for one hour and 15 minutes on a weekend and an extra time fee for additional time beyond those time periods. The extra time fees are as follows:

Extra time—weekday		
(1)	Zero to 45 minutes	Free
(2)	45 minutes to one hour and 15 minutes	$3.00
(3)	One hour and 15 minutes to one hour and 45 minutes	$8.00
(4)	One hour and 45 minutes to two hours and 15 minutes	$15.00
(5)	Two hours and 15 minutes to two hours and 45 minutes	$24.00
(6)	Two hours and 45 minutes to three hours and 15 minutes	$35.00
(7)	Three hours and 15 minutes to three hours and 45 minutes	$47.00
(8)	Three hours and 45 minutes to four hours and 15 minutes	$62.00
(9)	Four hours and 15 minutes to four hours and 45 minutes (maximum)	$79.00
Extra time—weekend		
(1)	Zero minutes to one hour and 15 minutes	Free
(2)	One hour and 15 minutes to one hour and 45 minutes	$3.00
(3)	One hour and 45 minutes to two hours and 15 minutes	$8.00
(4)	Two hours and 15 minutes to two hours and 45 minutes	$15.00
(5)	Two hours and 45 minutes to three hours and 15 minutes	$24.00
(6)	Three hours and 15 minutes to three hours and 45 minutes	$35.00
(7)	Three hours and 45 minutes to four hours and 15 minutes	$47.00
(8)	Four hours and 15 minutes to four hours and 45 minutes	$62.00
(9)	Four hours and 45 minutes to five hours and 15 minutes (maximum)	$79.00

(Code 2015, § 12-121; Ord. No. 2016-183, §§ 1, 2, 6-27-2016)

Sec. 12-121. Criminal and traffic court costs; fee for electronic summons system.

A fee of $5.00 shall be assessed by the City in each criminal or traffic case in the General District Court of the City of Richmond, the Juvenile and Domestic Relations District Court of the City of Richmond, and the Circuit Court of the City of Richmond in which the defendant is charged with a violation of any statute or ordinance. The assessment shall be collected by the clerk of the court in which the action is filed, remitted to the Director of Finance, and held by the Director of Finance subject to disbursement by the City Council to the Department of Police to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.

(Code 2015, § 12-122; Ord. No. 2018-239, §§ 1, 2, 10-8-2018; Ord. No. 2019-194, § 1, 9-9-2019)

State law reference—Authority for above fee, Code of Virginia, § 17.1-279.1.

Sec. 12-122. Fire and Emergency Services training events.

A fee of $75.00 shall be assessed by the City, through the Department of Fire and Emergency Services, for each person who attends a training event held by the Department of Fire and Emergency Services for sworn firefighter personnel.

(Code 2015, § 12-123; Ord. No. 2019-164, §§ 1, 2, 7-22-2019)

Sec. 12-123. Police law enforcement services for special events.

A fee shall be assessed by the City, through the Department of Police, for each employee who provides law enforcement services at a special event. The fee shall be equal to each Department of Police employee's personal hourly rate multiplied by each hour worked or a prorated portion thereof, multiplied by 1.5. An additional fee of $35.00 per day shall be charged for use of each police vehicle. The City, through the Chief of Police or the written designee thereof, shall enter into a contract with the holder of the special event for the provision of the services and the payment of the fees. A minimum of four hours per employee shall be charged for each special event for which such services are requested. Such fee shall be prorated for the time for which such services are actually rendered, but in no case shall the fee be less than an amount equal to four hours per employee. For the purposes of this section, the term "special event" shall mean an event in the City that is organized to attract participants or spectators from the public.

(Code 2015, § 12-124; Ord. No. 2019-340, §§ 1(12-123), 2, 1-27-2020)

Secs. 12-124—12-240. Reserved.

ARTICLE V. FUND BALANCES

DIVISION 1. GENERALLY

Sec. 12-241. Definitions.

(a) The following words, terms, and phrases, when used in this division, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meeting:

Calculated general fund surplus means the general fund balance less all of the following:

(1) The amount of any committed fund balance other than the Budget and Revenue Stabilization Contingency Reserve, non-spendable fund balance, or restricted fund balance.

(2) Any encumbered amount properly reported within a committed fund balance, non-spendable fund balance, or restricted fund balance.

(3) The amount of the unassigned fund balance as reported in the City's comprehensive annual financial report for the immediately preceding fiscal year.

(4) The amount of the Budget and Revenue Stabilization Contingency Reserve as reported in the City's comprehensive annual financial report for the immediately preceding fiscal year.

(5) Any amounts due to or due from the School Board of the City of Richmond, Virginia.

General fund balance means, for a fiscal year, the net position of the general fund calculated as of June 30 in accordance with generally accepted accounting principles.

Special purpose reserve means an assigned fund balance or a committed fund balance for which this article does not expressly provide and that does not exist as of the date on which the ordinance initially establishing this article becomes effective.

(b) The terms "assigned fund balance," "committed fund balance," "non-spendable fund balance," "restricted fund balance," and "unassigned fund balance" have the meanings ascribed to them by Governmental Accounting Standards Board Statement No. 54.

(Code 2015, § 12-251; Ord. No. 2017-215, § 1, 12-11-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 12-242. Disposition of calculated general fund surplus; reporting.

(a) It is the policy of the City that each years calculated general fund surplus be allocated as follows:

(1) Fifty percent to the "rainy day fund," with the exact allocation between the Budget and Revenue Stabilization Contingency Reserve and the unassigned fund balance determined by the Mayor in the Mayor's discretion.

(2) Forty percent to the Capital Maintenance Reserve.

(3) Ten percent to special purpose reserves as determined pursuant to Section 12-265.

(b) No later than September 15 of each year, the Mayor shall furnish the City Council with a report on the general fund balance. The report must include all of the following:

(1) The amount of the unaudited general fund balance from the fiscal year ending on the June 30 immediately preceding the date on which this report is due.

(2) The unaudited calculated general fund surplus from the fiscal year ending on the June 30 immediately preceding the date on which this report is due.

(3) The Mayor's proposals, if any, for the creation of any special purpose reserves pursuant to Section 12-265.

(Code 2015, § 12-252; Ord. No. 2017-215, § 1, 12-11-2017)

Secs. 12-243—12-260. Reserved.

DIVISION 2. RESERVES AND GOALS

Sec. 12-261. "Rainy day" fund.

The "rainy day" fund consists of the Budget and Revenue Stabilization Contingency Reserve and the unassigned fund balance. It is the goal of the City that the total of the "rainy day" fund be equal to at least 16.67 percent of budgeted general fund operating expenses for the latest fiscal year for which the City Council has adopted a general fund budget.

(Code 2015, § 12-261; Ord. No. 2017-215, § 1, 12-11-2017)

Sec. 12-262. Unassigned fund balance.

(a) It is the goal of the City that the unassigned fund balance be equal to at least 13.67 percent of budgeted general fund operating expenses for the latest fiscal year for which the City Council has adopted a general fund budget.

(b) It is the policy of the City that appropriations be made from the unassigned fund balance (i) only in the event of unusual, unanticipated, and seemingly insurmountable hardship and (ii) only after all other reserves or contingency funds have been exhausted.

(c) If funds are expended from the unassigned fund balance to cover appropriations, the Mayor shall submit to the City Council, within 90 days after the date on which such funds were expended, a plan to restore the amount of the unassigned fund balance so expended within three years after the date on which such funds were expended.

(Code 2015, § 12-262; Ord. No. 2017-215, § 1, 12-11-2017)

Sec. 12-263. Budget and Revenue Stabilization Contingency Reserve.

(a) There is created a Budget and Revenue Stabilization Contingency Reserve. It is the goal of the City that the Budget and Revenue Stabilization Contingency Reserve be equal to three percent of budgeted general fund operating expenses for the latest fiscal year for which the City Council has adopted a general fund budget.

(b) It is the policy of the City that appropriations be made from the Budget and Revenue Stabilization Contingency Reserve only when catastrophic, unforeseen, or unavoidable events cause a reduction in revenue or an increase in expenditures, either or both.

(c) If funds are expended from the Budget and Revenue Stabilization Contingency Reserve to cover appropriations, the Mayor shall submit to the City Council, within 90 days after the date on which such funds were expended, a plan to restore the amount of the unassigned fund balance so expended within three years after the date on which such funds were expended.

(Code 2015, § 12-263; Ord. No. 2017-215, § 1, 12-11-2017; Ord. No. 2019-208, § 1, 11-12-2019)

Sec. 12-264. Capital Maintenance Reserve.

There is created a Capital Maintenance Reserve. The City Council may make appropriations from the Capital Maintenance Reserve for the capital maintenance, as determined in accordance with generally accepted accounting principles, of (i) schools administered by the School Board of the City of Richmond, Virginia, (ii) streets and sidewalks as defined by Section 24-1, and (iii) buildings and other facilities owned by the City. The City Council does not intend that appropriations be made from the Capital Maintenance Reserve for the construction of new schools, streets, sidewalks, buildings, or other facilities or to add additional area or space to existing schools, streets, sidewalks, buildings, or other facilities.

(Code 2015, § 12-264; Ord. No. 2017-215, § 1, 12-11-2017)

Sec. 12-265. Special purpose reserves.

Assignments for a special purpose reserve must be only for one-time, non-recurring purposes and may not be for an installment or phase of a multi-installment or multi-phase project. No such assignments may be made other than in accordance with this section. The City Council may, by resolution adopted no later than November 1, make an assignment of all or any part of the portion of the calculated general fund surplus for the preceding fiscal year allocated for special purpose reserves pursuant to Section 12-242. If, by November 1, the Council makes no such assignment or does not make such an assignment of all of the portion of the calculated general fund surplus for the preceding fiscal year allocated for special purpose reserves pursuant to Section 12-242, the Mayor, in the Mayor's discretion, may make such an assignment in a writing to the City Council.

(Code 2015, § 12-265; Ord. No. 2017-215, § 1, 12-11-2017)

Chapter 13

FIRE PREVENTION AND PROTECTION*

***Charter reference—**Authority of City to regulate transportation of dangerous or offensive substance, § 2.04(j); authority to regulate the manufacture, etc., of explosive or inflammable substances and fireworks, § 2.04(n); authority of City to regulate the making of fires, § 2.04(o).

Cross reference—Department of Fire and Emergency Services, § 2-372 et seq.; buildings and building regulations, Ch. 5; emergency services, Ch. 10; vessels laden with explosives and other hazardous cargo, § 20-39.

State law reference—Fire protection generally, Code of Virginia, § 27-1 et seq.; authority of city to make additional regulations for fireworks, Code of Virginia, § 15.2-974.

ARTICLE I. IN GENERAL

DIVISION 1. GENERALLY

Sec. 13-1. Adopted; penalties.

(a) There is hereby adopted by the City the fire control measures and regulations as set forth in this chapter for the purposes of controlling conditions which could impede or interfere with fire suppression forces.

(b) Any violation of this section/chapter shall be punishable as a Class 1 misdemeanor, in accordance with the Virginia Statewide Fire Prevention Code and as provided by Section 1-16.

(Code 2004, § 46.1-1; Code 2015, § 13-1; Ord. No. 2006-150-165, § 3, 6-12-2006)

Secs. 13-2—13-20. Reserved.

DIVISION 2. AUTHORITY AT FIRES AND OTHER EMERGENCIES

Sec. 13-21. Duties of Chief of Fire and Emergency Services in time of riot or insurrection.

The Chief of Fire and Emergency Services, in time of riot or insurrection shall, on the order of the Chief Administrative Officer, assemble the Fire Department and assist the police in the City in restoring order or quelling insurrection.

(Code 2004, § 46.1-2; Code 2015, § 13-21; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-22. Authority at fires and other emergencies.

The Fire Code Official or a duly authorized representative, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The Fire Code Official may prohibit any person, vehicle or object from which may impede or interfere with the operations of the Department of Fire and Emergency Services. The Fire Code Official may remove or cause to be removed any person, vehicle, or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the Fire Code Official.

(Code 2004, § 46.1-3; Code 2015, § 13-22; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2015-190, § 1, 11-9-2015; Ord. No. 2015-190, § 1, 1-11-2016)

Sec. 13-23. Cutting off electricity during progress of fire or other emergency.

During the progress of a fire or other emergency, the Fire Code Official may require any company owning or using wires for the furnishing of electricity in or near the City to cut off the electrical current passing over such wires during the fire or other emergency. Upon failure of a company owning or controlling such wires to obey promptly such requirement, the Fire Code Official may cause any such wires to be cut if such action is deemed necessary in order to combat such fire or other emergency.

(Code 2004, § 46.1-4; Code 2015, § 13-23; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-24. Imposition of costs for cleanup of hazardous waste.

(a) The Fire Code Official or a duly authorized representative shall have authority to remove, dispose of, or otherwise abate any hazardous materials which have been spilled or otherwise released into the environment, whether on public property or on private property, if the Fire Code Official determines that the unabated presence of those materials creates a risk to public safety.

(b) The Fire Code Official shall first attempt to have the spill or release abated by any party responsible for it, unless it creates a clear and present danger requiring immediate abatement. If such clear and present danger exists, or if the responsible party fails to abate as requested, then the Fire Code Official may abate as described in subsection (a) of this section. The Fire Code Official may contract with a private party in whole or in part for such abatement.

(c) If the City abates a spill or release pursuant to this section, it shall be entitled to recovery of its actual costs incurred in removal, including, without limitation, amounts expended to private contractors plus a ten-percent administrative expense, and the higher of the cost or the value of any and all actual goods and services provided by the City proper. In addition thereto, the court may authorize recovery of punitive damages in amount not to exceed such costs when the responsible party's failure to abate is unreasonable.

(Code 2004, § 46.1-5; Code 2015, § 13-24; Ord. No. 2006-150-165, § 3, 6-12-2006)

Cross reference—Environment, Ch. 11; finance, Ch. 12.

Sec. 13-25. Power of Fire Marshal to procure and serve warrants and to issue summonses.

The Fire Marshal and his deputies and assistants shall have the authority to arrest, to procure and serve warrants of arrest and to issue summonses in the manner prescribed by law, for violations of this chapter and fire safety and related ordinances and laws of the City and the State. The authority granted in this section shall not be exercised until such person has satisfactorily completed a training course for fire marshals and their assistants, which course shall be approved by the Virginia Fire Services Board.

(Code 2004, § 46.1-6; Code 2015, § 13-25; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-26. Police powers of Fire Marshal.

The Fire Marshal and his designated deputies and assistants shall have the same powers as a sheriff, a police officer, or a law enforcement officer. The investigations of all alleged offenses pursuant to the Code of Virginia shall be the responsibility of the Fire Marshal or his designee. The police powers granted in this section shall not be exercised by the Fire Marshal or any deputy or assistant until such person has satisfactorily completed a course designed for fire marshals with police powers that is approved by the Virginia Fire Services Board. In addition, such person with police powers shall continue to exercise those police powers only subject to participation in and satisfactory completion of, in service and advanced courses as shall be required and approved by the Virginia Fire Services Board.

(Code 2004, § 46.1-7; Code 2015, § 13-26; Ord. No. 2006-150-165, § 3, 6-12-2006)

Secs. 13-27—13-55. Reserved.

ARTICLE II. INTERFERENCE, DAMAGE, OR FAILURE TO COMPLY

Sec. 13-56. Compliance with orders.

It shall be unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of the Fire Code Official or to interfere with the compliance attempts of another individual.

(Code 2004, § 46.1-20; Code 2015, § 13-56; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-57. Refusal to abate spill or release of hazardous material.

It shall be unlawful for any responsible person, whether natural or artificial, willfully to fail to abate promptly a spill or release of hazardous material when requested to do so by the Fire Code Official or an authorized representative.

(Code 2004, § 46.1-21; Code 2015, § 13-57; Ord. No. 2006-150-165, § 3, 6-12-2006)

Cross reference—Environment, Ch. 11.

Sec. 13-58. Penalties for failure to abate hazardous material spill.

(a) Any violation of the provisions of this division shall be punishable as a Class 1 misdemeanor, as provided in Section 1-16.

(b) In addition to the criminal penalties imposed herein or elsewhere for willful refusal to abate a spill or a release of hazardous material, and in addition to any other legal or equitable relief available, the City shall, upon a showing that the responsible party poses a continuing risk of causing additional spills or releases of hazardous materials, be entitled to temporary injunctive relief to require that party to cease doing business or to cease engaging in specified operations or activities, in the discretion of the court, until such time as the party can affirmatively demonstrate that it no longer poses such a risk.

(Code 2004, § 46.1-22; Code 2015, § 13-58; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2010-224-209, § 1, 11-11-2010)

Sec. 13-59. Interference with vehicles or operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any Department of Fire and Emergency Services emergency vehicle in any way, or to interfere, conspire to interfere with, obstruct or hamper any Department of Fire and Emergency Services operation.

(Code 2004, § 46.1-23; Code 2015, § 13-59; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-60. Damage or injury to equipment or personnel.

It shall be unlawful for any person to damage or deface, or attempt, or conspire to damage or deface any Department of Fire and Emergency Services emergency vehicle at any time, or to injure, or attempt to injure or conspire to injure Department of Fire and Emergency Services personnel while performing departmental duties.

(Code 2004, § 46.1-24; Code 2015, § 13-60; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-61. Unlawful boarding or tampering with emergency equipment.

It shall be unlawful for any person, without proper authorization from the Fire Code Official in charge of the Department of Fire and Emergency Services emergency equipment, to cling to, attach anything to, climb upon or into, board, or swing upon any Department of Fire and Emergency Services emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with, any levers, valve, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any Department of Fire and Emergency Services emergency vehicle.

(Code 2004, § 46.1-25; Code 2015, § 13-61; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-62. Street obstructions.

It shall be unlawful for any person, without the prior approval of the Fire Code Official, to erect, construct, place, or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street, within the boundaries of the City. The term "street," as used in this section, shall mean any roadway accessible to the public for vehicular traffic, including, but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the City.

(Code 2004, § 46.1-26; Code 2015, § 13-62; Ord. No. 2006-150-165, § 3, 6-12-2006)

Cross reference—Streets, sidewalks and public ways, Ch. 24.

Secs. 13-63—13-82. Reserved.

ARTICLE III. BOARDINGHOUSES, LODGINGHOUSES, AND ROOMINGHOUSES*

***Cross reference—**Hotels and motels, § 6-23 et seq.; transient lodging tax § 26-724 et seq.; license tax for hotels, campsites, trailer parks and other lodging businesses, § 26-961.

Sec. 13-83. Boardinghouses, lodginghouses and roominghouses.

(a) Every operator of a boardinghouse, lodginghouse or roominghouse shall keep a register showing the name and sex of each boarder, lodger or guest; the date of registration; and the name and address and telephone number, if known, of the nearest relative or person with whom communication can be made in the event of fire or explosion, causing or contributing to the death or injury of the boarder, lodger or guest.

(b) Every boardinghouse, lodginghouse and roominghouse shall be maintained and operated by the person who is assessed with the license tax levied therefor or who is issued the certificate of occupancy.

(c) No boardinghouse, lodginghouse or roominghouse shall be permitted to be occupied by more boarders, lodgers or guests than is prescribed for the license tax levy or by the certificate of occupancy.

(d) Every receipt for the payment of the license tax for the current license tax year and every certificate of occupancy shall be posted and displayed where it can be readily and easily seen at or near the main entrance to the boardinghouse, lodginghouse and roominghouse.

(e) The operation of each boardinghouse, lodginghouse and roominghouse shall be managed by a mentally and physically competent person who shall be in charge of the boardinghouse, lodginghouse and roominghouse. Such person, or an authorized representative, shall be on the premises at all times.

(Code 2004, § 46.1-30; Code 2015, § 13-83; Ord. No. 2006-150-165, § 3, 6-12-2006)

Secs. 13-84—13-109. Reserved.

ARTICLE IV. HYDRANTS AND WATER SUPPLY*

***Cross reference—**Fire hydrants in subdivisions, § 25-257.

Sec. 13-110. Public water supply.

The Fire Code Official shall recommend to the Chief Administrative Officer of the City the location or relocation of new or existing fire hydrants and the replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed into or removed from service until approved by the Fire Code Official.

(Code 2004, § 46.1-40; Code 2015, § 13-110; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-111. Additional fire hydrants for certain occupancies and uses.

(a) All new and existing shipyards, oil storage plants, lumberyards, amusement or exhibition parks, and educational or institutional complexes and similar occupancies and uses involving high fire or life hazards, and which are located more than 150 feet from a public street or which require quantities of water beyond the capabilities of the public water distribution system shall be provided with properly placed fire hydrants. Such fire hydrants shall be capable of supplying fire flows as required by the Fire Code Official and shall be connected to a water system in accordance with accepted engineering practices.

(b) The Fire Code Official shall designate and approve the number and location of fire hydrants.

(c) The Fire Code Official may require the installation of sufficient fire hose and equipment housed in accordance with the approved rules and may require the establishment of a trained fire brigade when the hazard involved requires such measures.

(d) Private hydrants shall not be placed into or removed from service until approved by the Fire Code Official.

(Code 2004, § 46.1-41; Code 2015, § 13-111; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-112. Hydrant use approval.

It shall be unlawful for any person to use or operate any fire hydrant intended for use of the Department of Fire and Emergency Services for fire suppression purposes unless such person first secures permission for such use from the Fire Code Official and the water company having jurisdiction. This section shall not apply to the use of such hydrants by a person employed by, and authorized to make such use by, the water company having jurisdiction.

(Code 2004, § 46.1-42; Code 2015, § 13-112; Ord. No. 2006-150-165, § 3, 6-12-2006)

Secs. 13-113—13-137. Reserved.

ARTICLE V. FIRE PREVENTION CODE*

***Cross reference—**Buildings and building regulations, Ch. 5.

DIVISION 1. GENERALLY

Sec. 13-138. Adoption, amendments and enforcement.

(a) The current Virginia Statewide Fire Prevention Code, along with its associated referenced standards and amendments, is hereby adopted. The current Virginia Statewide Fire Prevention Code is amended and changed pursuant to the Code of Virginia in the following respects: The Virginia Statewide Fire Prevention Code is hereby amended, to insert Section 105.6, to read as follows:

105.6. Permits are required in accordance with Sections 107.1 through 108.5.12 and the City Code on fire code permit fees.

(c) As authorized by Virginia State Code, the City's Fire Marshal and duly authorized representatives shall enforce the Virginia Statewide Fire Prevention Code and the City's fire safety regulations.

(Code 2004, § 46.1-50; Code 2015, § 13-138; Ord. No. 2006-150-165, § 3, 6-12-2006)

State law reference—Virginia Statewide Fire Prevention Code Act, Code of Virginia, § 27-94 et seq.

Secs. 13-139—13-159. Reserved.

DIVISION 2. PERMITS AND FEES

Sec. 13-160. Permit issuance.

Whenever any provision of this chapter or the Virginia Statewide Fire Prevention Code requires the issuance of a permit as a condition precedent to engaging in or conducting any business, enterprise or activity, no such permit shall be issued unless the applicant therefor pays to the City a fee as Follows:

("O" = Operational, permit required for each event or consecutive series; "A" = Annual. Customer must agree and abide by the Richmond Fire Prevention Permit Holder's Guidelines issued as condition of each permit.)		
Permit Description	*Term*	*Fee*
Aerosol products	A	$200.00
Above Ground Storage Tank Removal	O	Site visit $45.00
		Each tank $45.00
		Each additional visit $45.00
Amusement buildings	A	$200.00*
	O	$200.00
Assembly or educational	A	$200.00*
	O	$200.00
(*Permits for assembly and educational facilities with an approved capacity of 51 to 500 are $125.00; above 500 are $200.00.)		
Aviation facilities	A	$200.00
Battery systems	A	$200.00
Blasting/explosives	O	$300.00--$600.00**
(** $300.00 to store explosives at an approved site from one day to one year, or for a small blast which has no		

concern for damage beyond blast area; $600.00 to blast where damage concerns beyond site. An additional $50.00 is due during normal work hours for each witnessed blast after initial event.)		
Cellulose nitrate film	A	$200.00
Combustible dust – producing operations	A	$250.00
Combustible fibers	A	$200.00
Compressed gas	A	$200.00
Covered malls	A	$200.00
	O	$40.00
Cutting and welding	A	$150.00
	O	$150.00
Cryogenic fluids	A	$200.00
Dry cleaning plants	A	$200.00
Exhibits and trade shows	A	$250.00
	O	$150.00
Fireworks or pyrotechnics (discharge)	O	$250.00
Flammable and combustible liquids	A	$250.00***
Storage tank closure/removal	O	$200.00 per tank***
(*** $45.00 per site visit; $45.00 for each additional visit.)		
Floor finishing	A	$200.00
Fruit and crop ripening	A	$200.00
Fumigation and thermal insecticidal fogging	O	$100.00
Warehouse/complex	A	$300.00
Confined area/vault	A	$200.00
1–2 family detached home	O	$200.00
Hazardous materials	A	$200.00 per warehouse
HPM facilities	A	$200.00
High-piled storage	A	$200.00
Hot works operations	A	$200.00
	O	$100.00 per event
Lumber yards and woodworking plants	A	$200.00
Liquid or gas filled vehicles or equipment	A	$200.00
In assembly buildings	O	$200.00
LP-gas	A	$200.00
Magnesium	A	$250.00
Misc. combustible storage	A	$200.00
Open burning residential	O	$100.00
Commercial (pit burn)	O	$500.00

Open flames and candles	A/O	$75.00
Organic coatings	A	$250.00
Pyrotechnic special effects material	O	$200.00
Pyroxylin plastics	A	$200.00
Repair garages and service stations	A	$100.00
Rooftop heliports	A	$600.00
Spraying or dipping	A	$200.00
Storage of scrap tires and tire byproducts	A	$200.00
Temporary membrane structures, tents, and canopies	A/O	$100.00
Tire-rebuilding plant	A	$200.00
Waste handling	A	$200.00
Wood products	A	$200.00
Fee for copy of incident report (or replacement copy of inspection report or permit after original issued)		$15.00
Site assessment fee		$50.00 single/$100.00 multiple adjoining sites
Stop work notice – operating without a permit		$200.00 per incident

(Code 2004, § 46.1-51; Code 2015, § 13-160; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2010-224-209, § 1, 11-11-2010; Ord. No. 2015-269, § 2, 1-11-2016; Ord. No. 2015-270, § 2, 1-11-2016; Ord. No. 2020-078, § 2, 5-11-2020)

Secs. 13-161—13-188. Reserved.

DIVISION 3. CODE AMENDMENTS*

***Cross reference—**Buildings and building regulations, Ch. 5.

State law reference—Authority of city to adopt statewide fire prevention code, Code of Virginia, § 27-97.

Sec. 13-189. Approval required.

Prior to the use of torches or flame-producing devices to remove paint from any building or structure, or the use of torches or other flame-producing devices for applying roofing material or sweating pipes, a permit shall be obtained from the Fire Code Official.

(Code 2004, § 46.1-52; Code 2015, § 13-189; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-190. Aboveground and underground storage tank removal/closure.

Any aboveground storage tank or underground storage tank that has not been used for the storage of combustible or flammable liquids, other hazardous or unknown substance, and is determined to be leaking, abandoned, or not actively used for more than one year shall be removed or filled with an approved inert solid, such as cement slurry or foam unless otherwise approved by the Fire Marshal's Office. A sample of soil near the area under an aboveground or underground tank shall be tested for tank contents, and a copy of that report shall be provided to the Fire Code Official. A permit from the Fire Code Official is required. The Fire Code Official has authority to decide if any such tank may be filled with a material or shall be removed. Septic tanks are not covered by this Code.

(Code 2004, § 46.1-53; Code 2015, § 13-190; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2015-269, § 1, 1-11-2016, Ord. No. 2020-078, § 1, 5-11-2020)

Sec. 13-191. Authority to make sketches, video tapes, and take photographs.

Pursuant to appropriate lawful authority, the Fire Code Official or a duly authorized representative is

authorized to make such sketches, video tapes and take such photographs as deemed necessary by said official to document conditions observed that are apparent or actual violations of the provisions of this Code. Subsequent to a fire, explosion, or other emergency, and pursuant to the Fire Code Official's lawful presence on the premises, such photographs may be taken and video tapes or sketches made, as are necessary to adequately depict the conditions for the purpose of investigation. No person shall interfere with, refuse, or obstruct such lawful sketching, videotaping, or photograph making.

(Code 2004, § 46.1-54; Code 2015, § 13-191; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-192. General notification of Fire Department.

In any building, structure, or premises subject to inspection under any provision of this Code, when a fire or evidence of there having been a fire is discovered, even though it has apparently been extinguished, it shall immediately be reported to the Richmond Department of Fire and Emergency Services via the Division of Emergency Communications of the Department of Police, phone 9-1-1. This shall be the duty of the owner, manager, or person in control of such building, structure or premises at the time of the discovery. This requirement shall not be construed to forbid the owner, manager or person in control of said property from using all diligence necessary to extinguish such fire prior to the arrival of the Fire and Emergency Services Department personnel.

(Code 2004, § 46.1-55; Code 2015, § 13-192; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-193. Overcrowding.

A person shall not permit overcrowding or admittance of any person beyond the approved occupant load. The Fire Code Official, upon finding overcrowded conditions or obstruction in aisles, passageways or other means of egress, or upon finding any condition which constitutes a hazard to life and safety, may cause the occupancy, performance, presentation, spectacle or entertainment to be stopped until such a condition or obstruction is corrected and the addition of any further occupants prohibited until the approved occupant load is reestablished.

(Code 2004, § 46.1-56; Code 2015, § 13-193; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-194. Rental facilities.

In rental storage facilities the storage of any hazardous material (including flammable, combustible, toxic, explosives, or ammunition) or more than four tires is prohibited. Exception: up to five gallons or one-fourth tank (whichever is less) fuel in a motor vehicle, where such vehicles are allowed to be stored and the battery of that vehicle is disconnected. Any owner or agent of such rental storage facility shall include this prohibition in the rental contract.

(Code 2004, § 46.1-57; Code 2015, § 13-194; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-195. Storage of tires.

It shall be unlawful to store, outside of a completely enclosed building or structure, any rubber tires, including automobile, truck and similar rubber tires, or scrap tires, tire pieces or combustible byproducts. This section shall not apply to the storage of up to four rubber tires for personal use.

(Code 2004, § 46.1-58; Code 2015, § 13-195; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2017-081, § 1, 7-24-2017)

Sec. 13-196. Fire protection required for self-service fueling stations.

Pursuant to authority conferred in the Code of Virginia, self-service fueling stations must operate either with an attendant present, or operate only while meeting the following minimum requirements:

(1) Listed dispensing devices shall be used. Coin and currency-type devices shall not be permitted.

(2) Emergency controls specified in the Virginia Statewide Fire Prevention Code shall be installed at a location as approved in writing by the Fire Marshal, but in any event such controls shall be installed more than 20 feet and less than 100 feet from the dispensers. Additional emergency controls shall be installed on each group of dispensers or the outdoor equipment used to control the dispensers. Emergency controls shall shut off power to all dispensing devices at the station. Controls shall be manually reset only in a manner approved in writing by the Fire Marshal.

(3) Operating instructions shall be conspicuously posted in the dispensing area, and shall include location of

emergency controls, and a requirement that the user must stay outside of the user's vehicle, in view of the fueling nozzle during dispensing.

(4) In addition to those warning signs specified in the Automotive and Marine Service Station Code, emergency instructions shall be conspicuously posted in the dispensing area incorporating the following or equivalent wording:

a. Emergency Instructions.

b. In case of fire or spill:

1. Use emergency stop button.

2. Report accidents by calling (specify local fire number) on phone. Report location.

(5) A listed, automatic-closing type hose nozzle valve without latch-open device shall be provided. The system shall include listed equipment with a feature that causes or requires the closing of the hose nozzle valve before the product flow can be resumed or before the hose nozzle valve can be replaced in its normal position in the dispenser.

(6) A telephone or other clearly identified means to notify the Department of Fire and Emergency Services, as approved in writing by the Fire Marshal, shall be provided on the site in a location approved in writing by the Fire Marshal.

(7) The facility shall not operate without having in place and operable the following systems as approved in writing by the Fire Marshal:

a. Fixed fire suppression system.

b. Automatic fire detection system.

c. Transmission of alarms to the Department of Fire and Emergency Services.

d. System to limit gallonage delivered per vehicle.

(8) Notwithstanding the foregoing, any card or key operated self-service fueling station that is accessible only by employees of a single, common owner or operator may operate without an attendant and without meeting the minimum requirements set forth in this section if and only if all other legal requirements of the Virginia Statewide Fire Prevention Code are met.

(9) The requirements set forth in this section are in addition to and do not limit the application of other legal requirements to fueling stations or the Fire Marshal's discretionary authority.

(Code 2004, § 46.1-59; Code 2015, § 13-196; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-197. Fireworks.

(a) Permissible fireworks (with the exception of caps containing not in an excess of 0.25 grain (16.2 mg) for toy pistols) and "pyrotechnic special-effects material," as defined in the Virginia Statewide Fire Prevention Code, shall be treated as "fireworks," subject to the same safety regulations and permit requirements.

(b) The manufacture of fireworks is prohibited within the City. It shall be a violation of this Code for any person to store, offer for sale, expose for sale, sell at retail, or use or explode any fireworks, except as provided in the rules and regulations issued by the Fire Code Official for the granting of permits for supervised public display of fireworks by the jurisdiction, fair association, amusement parks and other organizations. Every such display shall be handled by an approved, competent operator. The fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the Fire Code Official, will not be a hazard to property or endanger any person.

(c) Unfired fireworks and trash that remain after the display is concluded shall be immediately disposed of in an approved, safe manner.

(d) The Fire Code Official shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks that are offered or exposed for display or sale, or are stored or held in violation of this article.

(e) Nothing in this article shall be construed to prohibit any resident wholesaler, dealer or jobber to sell at wholesale such fireworks as are not herein prohibited, or the sale of any kind of fireworks provided the same are to

be shipped directly out of State, or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. Such wholesalers, dealers and jobbers shall store their supplies of fireworks in accordance with the Virginia Statewide Fire Prevention Code.

(f) Fireworks are prohibited within occupancy classifications A-2, A-3, E, H-1, H-2, H-4, I, M, R-1, R-2, or R-4.

(Code 2004, § 46.1-60; Code 2015, § 13-197; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-198. Parade floats.

All decorative materials utilized on parade floats shall be flame resistant in accordance with the field test of N.F.P.A. 701. All motorized apparatus utilized for parade floats shall be provided with a portable fire extinguisher with a minimum 2-A: 10-B:C rating, to which the operator shall have ready access. Any parade float utilizing special effects designed to create smoke, flame, and heat or sparking condition shall be approved by the Fire Code Official prior to utilization.

(Code 2004, § 46.1-61; Code 2015, § 13-198; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-199. Prohibitions related to open burning.

It shall be unlawful for any person, without proper authorization from the Fire Code Official, to ignite any open burning, as defined by the Virginia Statewide Fire Prevention Code, within the City. It shall also be unlawful for any responsible person to fail to contain or extinguish any open burning when requested to do so by the Fire Code Official.

(Code 2015, § 13-199; Ord. No. 2015-190, § 2, 11-9-2015)

Sec. 13-200. Thermal pest control treatment.

It shall be unlawful for any person to use or operate a temporary heat source to heat the interior of a building, structure or premises to a temperature above 100 degrees Fahrenheit for pest control treatment purposes unless such person obtains a permit from the Fire Code Official and agrees to comply with all safety requirements imposed by the Fire Code Official.

(Code 2015, § 13-200; Ord. No. 2015-270, § 1, 1-11-2016)

Sec. 13-201. Maximum standpipe outlet pressure.

The owner, manager or person in control of a building, structure or premises equipped with adjustable pressure reducing valves on a firefighting standpipe system, shall set the maximum outlet pressure for no more than 125 PSI residual pressure during full flow. Each standpipe outlet valve shall be tested at least every five years to ensure that the maximum flow discharge pressure does not exceed 125 PSI during full flow. Test records shall be provided to the Fire Code Official. Non-adjustable standpipe discharge valves with outputs over 150 PSI shall have permanent signs reading expected pressure. Pressure reducing valves installed after July 1, 2015, shall be set with maximum 125 PSI residual pressure during full flow.

(Code 2015, § 13-201; Ord. No. 2015-205, § 1, 1-11-2016)

Sec. 13-202. Fire escape examination and maintenance.

(a) *Definitions.*

Fire escape means a staircase or other apparatus mounted to the outside of a building, structure or premise, or mounted inside but separate from the main areas of the building, and providing a means of escape in the event of a fire or other emergency.

Owner means the owner, manager, or person in control of a building, structure or premises equipped with a fire escape.

(b) *Condition of fire escapes.* The owner shall maintain all fire escapes in good working order and shall keep all fire escapes clear and unobstructed at all times.

(c) *Minimum load.* The owner shall maintain all fire escapes to support a live load of not less than 100

pounds per square foot.

(d) *Required examination.* The owner shall cause all fire escapes to be examined by a registered design professional, or other professional as approved by the Fire Code Official, for structural adequacy and safety. The owner shall cause such examination to be performed every five years, or as required by the Fire Code Official. The owner shall submit the inspection report provided by the professional who completed the examination to the Fire Code Official within seven calendar days after such examination has been completed.

(Code 2015, § 13-202; Ord. No. 2015-207, § 1, 1-11-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 13-203. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm company means and includes any business operated for profit, engaged in the installation, maintenance, alteration, monitoring or servicing of alarm systems or which coordinates a response to such alarm systems.

Alarm permit means a permit issued by the City allowing the operation of an alarm system within the City.

Alarm signal means a detectable signal, either audible or visual, generated by an alarm.

Civilian fire safety inspection program means the type of fire safety inspection program based on the use of an unsworn person or persons designated by the Fire Marshal to (i) inspect commercial and institutional buildings according to the priorities of the Fire Marshal, (ii) provide fire safety education to commercial or institutional building owners, managers, and occupants, and (iii) inquire into third party reports of fire safety equipment deficiencies in commercial or institutional buildings.

Civilian fire safety inspector means the unsworn person or persons designated by the Fire Marshal to conduct fire safety inspections pursuant to the procedures and requirements of the civilian fire safety inspection program.

(Ord. No. 2020-077, § 1(13-203), 5-11-2020)

Cross reference—Definitions generally, § 1-2.

Sec. 13-204. Commercial property Fire Prevention Code inspections.

A fee shall be assessed by the City, through the Department of Fire and Emergency Services, for each employee who provides Virginia Statewide Fire Prevention Code inspections on commercial and institutional properties in the City.

Code enforcement fees, penalties, and discounts for Fire Prevention Code inspections on commercial and institutional properties in the City	
Basic inspection fee	
Per occupancy	$50.00
Reinspection 1	$50.00
Reinspection 2	$100.00
Reinspection 3–5	$200.00
Additional fees – residential	
Apartments/Condos – primary building	
Three to five units	$0.00
Six to ten units	$25.00
11 to 15 units	$35.00
16 to 20 units	$45.00

21 to 25 units	$60.00
26 to 30 units	$70.00
31 to 35 units	$80.00
36 to 40 units	$90.00
41 to 45 units	$100.00
46 to 50 units	$120.00
51 or more units	$2.50 per unit
Additional building with no internal common area	$15.00 each
Additional building with internal common area	$40.00 each
Motel and dormitories – primary building	
One to 25 units	$60.00
25 to 50 units	$120.00
51 to 75 units	$175.00
76 to 100 units	$250.00
101 or more units	$2.50 per unit
Additional building with no internal common area	$15.00 each
Additional building with internal common area	$40.00 each
Additional fees – nonresidential	
Primary building or area: 0–1,000 square feet	$0.00
Primary building or area: 1,001–10,000	$10.00 plus $1.00 per 100 square feet > 1,000
Primary building or area: 10,001 square feet or more	$200.00 plus $0.80 per 100 square feet > 10,000
Additional building or area: <10,001 square feet or more	$10.00 plus $1.00 per 100 square feet > 1,000
Additional building or area: >10,001 square feet or more	$200.00 plus $0.80 per 100 square feet > 10,000
Discounts – Business, factory, mercantile, and multifamily occupancies	
No hazards	30 percent reduction
Fully sprinklered	20 percent reduction
Fully sprinklered and no hazards	50 percent reduction
Special situations (in addition to the fees above)	
Hazardous occupancy fee	
All class H occupancies EXCEPT auto repair	$100.00
Assembly occupancy fee	$25.00
Inspection time overage fee, per hour in quarter hour increments assessed after 2 hours (residential),or 4 hours (nonresidential)	$50.00
Illegal occupancy fee	$300.00

Exceptions	$250.00
Maximum fee when no hazards are found, and requiring less than ten minutes inspection time	$40.00
Maximum fee for nonresidential occupancy requiring less than 30 minutes inspection time (excludes violation, penalty, interest, reinspection fees)	$500.00
Maximum fee for any nonresidential occupancy (excludes violation, penalty, interest, reinspection fees	$2,000.00
Minimum fee regardless of discounts	$30.00
Common violations fee	$30.00 for each violation class
Fees for unmitigated violations upon reinspection	
First reinspection	$100.00 per violation class plus $150.00
Second reinspection	$100.00 per violation class plus $300.00
Third and subsequent reinspections	$100.00 per violation class plus $600.00
Special use permits, public assembly, fireworks, pyrotechnics, propane, blasting, lasers	
Public assemblies (festivals, celebrations, special events)	
In assembly occupancies:	
Up to 25,000 square feet	$200.00
25,001 to 50,000 square feet	$300.00
50,001 to 100,000 square feet	$850.00
100,001 to 150,000 square feet	$1,100.00
150,001 to 200,000 square feet	$1,350.00
200,001 to 250,000 square feet	$1,600.00
250,001 or greater	$1,900.00
In non-assembly occupancies:	
Up to 25,000 square feet	$300.00
25,001 to 50,000 square feet	$600.00
50,001 to 100,000 square feet	$850.00
100,001 to 150,000 square feet	$1,100.00
150,001 to 200,000 square feet	$1,350.00
200,001 to 250,000 square feet	$1,600.00
250,001 or greater	$1,900.00
Outdoor tent and membrane structures (greater than 700 square feet):	
No walls, enclosures or fencing, four days or less	$200.00
With walls, enclosures or fencing (calculated by square feet of enclosed area using non-assembly fee structure)	$200.00

With walls, enclosures or fencing – in a public park (calculated by square feet of enclosed area using assembly fee structure)	$200.00
Theatrical weapons or blanks	$200.00
Fireworks:	
General public display, land-based	$300.00
General public display, water-based	$800.00
Wholesale storage and distribution	$200.00
Retail storage or sale, annual, in structure	$200.00
Retail storage or sale, annual, in structure	$250.00
Pyrotechnics	$300.00
Autos (four or more) in assembly occupancies blasting:	$100.00
Site permit	$500.00
Transportation and storage	$60.00
Lasers (requiring permit)	$100.00
Additional fees:	
Stand by fee – per inspector, minimum charge of one hour	$100.00
Additional plan review (when plans are changed after plan review is complete)	
During normal business hours, rounded to nearest one-half hour	$50.00
a. Minimum charge	$25.00
After normal business hours, rounded to the nearest one-half hour	$100.00
a. Minimum charge	$50.00
Special inspections (when inspections are requested or required outside of normal working hours to verify compliance with approved plans or permits), minimum charge	$100.00
Annual permits	
Fire performance art venue – annual (expires one year from issue)	$150.00
Fire performance art venue – single use (if a second single use venue permit is issued within 12 months the balance of $75.00 is due and the permit is converted to an annual permit with an expiration date one year from the issue date of the first permit.	$75.00
Public assemblies annual permit (expires one year from date of issue):	
Up to four pre-approved plans	$750.00
Up to ten pre-approved plans	$1,500.00
Propane for portable heating devices and cooking equipment, including vending carts (expires December 31 of the year issued)	$25.00

(Ord. No. 2020-077, §§ 1(13-204), 2, 5-11-2020)

Secs. 13-205—13-219. Reserved.

DIVISION 4. FIRE ALARM AND FIRE PROTECTION SYSTEMS*

***Cross reference—**Automatic telephone dialer alarms, § 10-19 et seq.

Sec. 13-220. Duties of alarm system owners and users.

Each owner or user of a fire protection system, which protects real property located within the City and is capable of causing notice of the alarm activation to be given to the Department of Fire and Emergency Services, shall be responsible for maintaining such alarm system in proper working order, including the following:

(1) Maintaining current information for the alarm monitoring company or the City's Division of Emergency Communications to contact one of at least three persons capable of quickly arranging for proper maintenance of that fire protection system.

(2) Upon activation of an alarm in an occupied building which emits an audible signal that is sufficiently loud enough to be heard by and disturb any other person, a person responsible for that alarm system shall silence such audible signal within 15 minutes of being notified of such signal's activation. Failure to respond to the property in the prescribed timeframe shall be a violation of this article and shall be punishable as a Class 1 misdemeanor.

(3) A person responsible for the care and management of any unoccupied building, including a temporary period of vacancy, that is protected by an alarm system which emits an audible signal or which results in the Department of Fire and Emergency Services being notified of the signal activation shall silence such audible signal within 20 minutes of being notified of such signal's activation and coordinate restoring that fire protection to normal with the Fire Code Official. Failure to respond to the property in the prescribed timeframe shall be a violation of this article and shall be punishable as a Class 1 misdemeanor.

(4) A person responsible for a fire protection system shall notify the Fire Code Official when that fire protection is out of service for more than one hour. Such notice shall occur at least 24 hours prior to an intended reduction in protection or within one hour after that person learning of an unintended reduction in that fire protection. This includes when such systems are out of service due to conditions beyond that person's control and when such system has been approved for reduction in protection by an authority other than the City Fire Code Official.

(Code 2004, § 46.1-68; Code 2015, § 13-220; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-221. Inspection reports.

(a) *Reporting.* It shall be the responsibility of any person or firm providing or conducting tests or inspections of fire protection systems within the City to submit a copy of the results of the aforementioned tests or inspections within 30 days to the Fire Code Official.

(b) *Rejection of reports.* The Fire Code Official may reject any reports provided pursuant to subsection (a) of this section unless the person or firm providing the reports also has provided the Fire Code Official with documentation of current certification and qualifications to conduct such tests or inspections in accordance with the appropriate National Fire Protection Association standard.

(Code 2004, § 46.1-69; Code 2015, § 13-221; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2015-189, § 1, 1-11-2016)

Secs. 13-222—13-250. Reserved.

ARTICLE VI. BOARD OF FIRE APPEALS*

***Cross reference—**Boards, commissions, committees and other agencies, § 2-767 et seq.

Sec. 13-251. Created; composition; appointment and terms of office; organization.

(a) There shall be a Board of Fire Appeals consisting of five members who shall be appointed by the City Council. Membership on the board shall include individuals who are qualified by experience and training to rule on matters pertaining to building construction and fire prevention.

(b) Members shall serve for a term of five years.

(c) The members shall elect a Chairperson.

(Code 2004, § 46.1-80; Code 2015, § 13-251; Ord. No. 2006-150-165, § 3, 6-12-2006)

Sec. 13-252. Duties; grounds for appeals.

(a) The Board of Fire Appeals shall be responsible for hearing appeals arising from the application of the provisions of the Virginia Statewide Fire Prevention Code and the City's fire safety regulations. The Board shall operate in accordance with the applicable sections of the Administrative Process Act, Code of Virginia, § 2.2-4000 et seq., and the Statewide Fire Prevention Code.

(b) The owner or occupant of a building may appeal a decision of the Fire Marshal to the Board of Fire Appeals when it is claimed that:

(1) The Fire Marshal has refused to grant a modification of the provisions of the Statewide Fire Prevention Code;

(2) The true intent of the Statewide Fire Prevention Code has been incorrectly interpreted;

(3) The provisions of the Statewide Fire Prevention Code do not fully apply; or

(4) The use of a form of compliance that is equal to or better than that specified in the Statewide Fire Prevention Code has been denied.

(Code 2004, § 46.1-81; Code 2015, § 13-252; Ord. No. 2006-150-165, § 3, 6-12-2006; Ord. No. 2010-224-209, § 1, 11-11-2010)

Chapter 14

FLOODPLAIN MANAGEMENT, EROSION AND SEDIMENT CONTROL, AND DRAINAGE*

***Cross reference**—Department of Planning and Development Services, § 2-455 et seq.; buildings and building regulations, Ch. 5; environment, Ch. 11; subdivision of land, Ch. 25; utilities, Ch. 28; zoning, Ch. 30.

State law reference—Flood Damage Reduction Act, Code of Virginia, § 10.1-600 et seq.

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. FLOODPLAIN MANAGEMENT*

***State law reference**—Flood protection and dam safety, Code of Virginia, § 10.1-600 et seq.

DIVISION 1. GENERALLY

Sec. 14-19. Purpose.

In accordance with Code of Virginia, Title 10.1, Ch. 6 (Code of Virginia, § 10.1-600 et seq.), and the National Flood Insurance Act of 1968, 42 USC 4001—4129, the purpose of this article is to promote the public health, safety and general welfare through the establishment of comprehensive floodplain management regulations designed to:

(1) Minimize loss of life and property due to flooding conditions;

(2) Prevent unnecessary disruption of commerce and public services in times of flooding;

(3) Avoid unnecessary and extraordinary expenditure of public funds for flood protection and relief; and

(4) Contribute to the maintenance of a stable tax base.

(Code 1993, § 13-21; Code 2004, § 50-31; Code 2015, § 14-19; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-20. Methodology.

In order to accomplish its purpose, this article establishes requirements and procedures for review of proposed development and land-disturbing activity within designated floodplain districts and includes provisions for:

(1) Prohibiting development and land-disturbing activity which, acting alone or in combination with other development or activity, will cause unacceptable increases in flood heights or velocities;

(2) Restricting or prohibiting certain development and land-disturbing activity within areas subject to flooding;

(3) Requiring that development permitted in floodplain districts be protected or floodproofed against flooding and flood damage in accordance with applicable sections of the Virginia Uniform Statewide Building Code;

(4) Controlling the alteration or relocation of watercourses, channels and floodplains and controlling filling, grading and other land-disturbing activity within floodplain areas in accordance with State and local requirements and procedures;

(5) Ensuring that those who develop land subject to flooding are aware of potential flood hazards and assume responsibility for their actions; and

(6) Ensuring that development in Chesapeake Bay Preservation Areas meets the requirements of this chapter.

(Code 1993, § 13-22; Code 2004, § 50-32; Code 2015, § 14-20; Ord. No. 2004-330-320, § 1, 12-13-2004)

Sec. 14-21. Definitions.

Words and terms not specifically defined in this section shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly

indicates a different meaning:

100-year flood means the base flood (i.e., the flood having a one percent chance of being equaled or exceeded in any given year).

Accessory structure means a structure used for purposes incident and subordinate to another structure on the same property and that does not exceed 200 square feet in area.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (i.e., the 100-year flood).

Base flood elevation means the elevation computed by the Federal Emergency Management Agency to which floodwater is anticipated to rise during the base flood, as reflected in the City's flood insurance rate map.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Chesapeake Bay Preservation Areas means those areas so designated in Article IV of this chapter.

Conditional letter of map revision means an official Federal Emergency Management Agency determination by letter that is a formal review as to whether a proposed flood protection project or other project complies with the minimum National Flood Insurance Program requirements for such projects with respect to delineation of special flood hazard areas. A conditional letter of map revision does not revise the effective floodplain insurance rate map or flood insurance study.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures for which a building permit must be obtained under the requirements of the Virginia Uniform Statewide Building Code and this article, mining, dredging, filling, grading, paving, excavation or drilling operations, or the storage of equipment or materials.

Digital flood insurance rate map means a flood insurance rate map that has been made available digitally.

Director means the Director of Public Utilities or a designee thereof.

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, columns, posts or piers.

Elevation certificate means an official record or document that shows new structures and substantial improvements in all identified special flood hazard areas are properly elevated.

Encroachment means the advance or infringement of uses, plant growth, fill excavation, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction and *existing structure* mean, for the purpose of determining rates, structures for which the start of construction commenced before June 15, 1979, which is the effective date of the City's initial flood insurance rate map.

Flood or *flooding* means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

   a. Overflow of inland or tidal waters;

   b. Unusual and rapid accumulation of runoff of surface waters from any source; or

   c. Mudflow; or

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as defined in subsection (1) of this definition.

Flood fringe district means any normally dry land area susceptible to partial or complete inundation during the 100-year flood and lying outside of the floodway district. The outermost boundary of the flood fringe district shall be the elevation of the 100-year flood contained in the flood profiles of the flood insurance study and shown on the flood boundary and floodway map.

Flood insurance rate map means an official map of the City on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the City.

Flood insurance study means a report by the Federal Emergency Management Agency that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow or flood-related erosion hazards.

Floodplain means the area, including watercourse, susceptible to partial or complete inundation during the 100-year flood.

Floodplain districts means those areas subject to partial or complete inundation by waters of the 100-year flood, including floodway districts, flood fringe districts and approximate floodplain districts.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway district means the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot. Areas included in the floodway district are defined in Table 2 of the flood insurance study prepared by the Federal Emergency Management Agency dated December 15, 1978, and as revised, effective July 20, 1998, April 2, 2009, and July 16, 2014.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

Frequency flood means a flood at a certain magnitude that will occur for a water body or drainage area over a certain period of time.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed in the Virginia Landmarks Register; or

(4) Individually listed on a local inventory of historic places certified by the Virginia Landmarks Register.

Hydrologic and hydraulic engineering analysis means an analysis performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and the Federal Emergency Management Agency, and used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Land-disturbing activity means any land change, including, but not limited to, clearing, grading, excavating, transporting and filling of land, or other construction activities which would disturb the natural vegetation or the existing contours of the land, which may result in soil erosion from water or wind and the movement of sediments into public or private storm drainage facilities.

Letter of map amendment means an official written determination from the Federal Emergency Management Agency based on technical data showing that a property was incorrectly included in a designated special flood hazard area that amends the current effective flood insurance rate map and establishes that a property as defined by metes and bounds, or a structure, is not located in a special flood hazard area.

Letter of map change means an official written determination from the Federal Emergency Management Agency that amends or revises an effective flood insurance rate map or flood insurance study, including a letter of

map amendment, a letter of map revision, a letter of map revision based on fill or a conditional letter of map revision.

Letter of map revision means an official written determination from the Federal Emergency Management Agency that revises an effective flood insurance rate map or flood insurance study, based on technical data that might show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

Letter of map revision based on fill means an official Federal Emergency Management Agency determination by letter that a structure or parcel of land has been elevated by fill above the base flood elevation and, therefore, is no longer exposed to flooding associated with the base flood. In order to qualify for the letter of map revision based on fill, the fill must have been permitted and placed in accordance with all applicable City legal requirements.

Lowest floor means the lowest floor of the lowest enclosed area of a structure, including basements. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure subject to Federal regulations which:

(1) Is transportable in one or more sections;

(2) Is eight body feet or more in width and 40 body feet or more in length in the traveling mode or is 320 or more square feet when erected on-site;

(3) Is built on a permanent chassis;

(4) Is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required facilities; and

(5) Includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

Mudflow means a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water. The term "mudflow" does not include landslides, slope failures, or a saturated soil mass moving by liquidity down a slope.

New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after June 15, 1979, which is the effective date of the City's initial flood insurance rate map, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced on or after May 29, 1979, which is the effective date of the City's original floodplain management ordinance, and includes any subsequent improvements to such structures.

Post-flood insurance rate map structure means a structure for which construction or substantial improvement occurred after June 15, 1979.

Pre-flood insurance rate map structure means a structure for which construction or substantial improvement occurred on or before June 15, 1979.

Recreational vehicle means a vehicle which is built on a single chassis; is 400 square feet or less when measured at the largest horizontal projections; is designed to be self-propelled or permanently towable by a light-duty truck; and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive loss structure means a building, covered by a contract for flood insurance, that has incurred flood-related damages on at least two occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.

Shallow flooding area means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, where velocity flow might be evident, and where such flooding is characterized by ponding or sheet flow.

Special flood hazard area means the land on the floodplain subject to a one percent or greater chance of being

flooded in any given year as determined in Section 14-59.

Start of construction includes "substantial improvement" and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storm drainage facility means any sewer, ditch, creek, river, lake, swale, watercourse or any other natural or manmade facility through which stormwater or storm runoff may pass regularly or intermittently in a concentrated fashion.

Structure means a walled and roofed building, including, but not limited to, a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of a historic structure, provided that:

a. The alteration will not preclude the structure's continued designation as a historic structure;

b. A historic structure undergoing repair or rehabilitation that otherwise would constitute a substantial improvement as defined in this section must comply with all applicable provisions of this Code that do not preclude the structure's continued designation as a historic structure;

c. Documentation that a specific provision of this Code will cause removal of the structure from the National Register of Historic Places or the Virginia Landmark Register must be obtained from the Secretary of the Interior or the Virginia Historic Preservation Officer, and a copy of such documentation must be provided to the City; and

d. Any exemption from otherwise applicable provisions of this Code will be the minimum necessary to preserve the historic character and design of the structure.

Watercourse means any natural or manmade channel, lake, river, creek, stream, wash or other topographic feature on or over which waters flow at least periodically. The term "watercourse" includes, but is not limited to, specifically designated areas in which substantial flood damage may occur.

(Code 1993, § 13-23; Code 2004, § 50-33; Code 2015, § 14-21; Ord. No. 2004-330-320, § 1, 12-13-2004; Ord. No. 2009-12-31, § 1, 2-23-2009; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2014-95-66, § 3, 4-28-2014)

Cross reference—Definitions generally, § 1-2.

Sec. 14-22. Applicability.

This article shall apply to all lands within the City located within designated floodplain districts.

(Code 1993, § 13-24; Code 2004, § 50-34; Code 2015, § 14-22)

Sec. 14-23. Compliance.

No land shall be developed; no structure shall be located, constructed, reconstructed, enlarged or structurally altered; and no land-disturbing activity shall take place within any floodplain district or Chesapeake Bay Preservation Area except in full compliance with this article, Chapter 30 and other applicable legal requirements.

(Code 1993, § 13-25; Code 2004, § 50-35; Code 2015, § 14-23; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-24. Related codes and ordinances; abrogation and greater restrictions.

The sections of this article supersede other land development-related codes and ordinances that may apply within designated floodplain districts, except that the sections of this article shall not be deemed to abrogate any provision of another code or ordinance which imposes additional or more stringent restrictions, including the Chesapeake Bay Preservation Area legal requirements set forth in Article IV of this chapter.

(Code 1993, § 13-26; Code 2004, § 50-36; Code 2015, § 14-24; Ord. No. 2004-330-320, § 1, 12-13-2004; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-25. Degree of protection; disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Floods more severe than the regulatory (100-year) flood can and will occur on rare occasions, as flood heights may be increased by natural and manmade causes. The sections of this article are not intended to imply that lands outside the designated floodplain districts or development permitted within such districts will be free from flooding or flood damage. This article shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result under compliance with this article or any administrative decision lawfully made pursuant to this article.

(Code 1993, § 13-27; Code 2004, § 50-37; Code 2015, § 14-25)

Secs. 14-26—14-54. Reserved.

DIVISION 2. FLOODPLAIN MANAGEMENT

Sec. 14-55. Director duties and responsibilities.

The Director shall administer and implement this article and, among other duties set forth in this article, shall:

(1) Review applications for permits to determine whether proposed activities will be located in the special flood hazard area.

(2) Interpret the floodplain boundaries and provide available base flood elevation and flood hazard information.

(3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(4) Review applications to determine whether all necessary permits have been obtained from the Federal, State, and local agencies from which prior or concurrent approval is required, including, in particular, permits from State agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction, including bridges, culverts, and structures; any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing nontidal waters of the State.

(5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Division of Dam Safety and Floodplain Management of the Virginia Department of Conservation and Recreation, and any other appropriate agencies, including, but not limited to, the Virginia Department of Environmental Quality, the Virginia Marine Resources Commission, and the United States Army Corps of Engineers, and have submitted copies of such notifications to the Federal Emergency Management Agency.

(6) Approve applications and issue permits to develop in flood hazard areas if the provisions of the requirements of this article have been met or disapprove applications if the requirements of this article

have not been met.

(7) Inspect, or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine whether such buildings, structures, and other development comply with this article, whether such buildings, structures, and other development do not comply with this article, or whether such buildings, structures, and other development violate this article.

(8) Review elevation certificates and require incomplete or deficient certificates to be corrected.

(9) Submit to the Federal Emergency Management Agency, or require applicants to submit to the Federal Emergency Management Agency, data and information necessary to maintain flood insurance rate maps, including hydrologic and hydraulic engineering analyses prepared by or for the City, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(10) Maintain and permanently keep records that are necessary for the administration of this chapter, including:

a. Flood insurance studies, flood insurance rate maps, including historic studies and maps, and current effective studies and maps, and letters of map change; and

b. Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation, in relation to the data on the flood insurance rate map, to which structures have been floodproofed, records of lowest floor and floodproofing elevations for new construction and substantial improvements, where base flood elevation data is utilized, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(11) Enforce the provisions of this article, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(12) Advise the Board of Zoning Appeals concerning the intent of this article and, for each application for a variance, prepare a staff report and recommendation.

(13) Administer the requirements related to proposed work on existing buildings, including:

a. Making determinations as to whether buildings and structures that are located in flood hazard areas, and that are damaged by any cause, have been substantially damaged.

b. Making reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate or reconstruct any such structure, and prohibit the noncompliant repair of substantially damaged structures, except for temporary emergency protective measures necessary to secure or to stabilize a structure to prevent additional damage.

(14) Undertake, as the Director determines is appropriate due to the circumstances, other actions, which may include, but are not limited to:

a. Issuing press releases, public service announcements and other public information materials related to permit requests and repair of damaged structures;

b. Coordinating with other Federal, State, and local agencies to assist with substantial damage determinations;

c. Providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and

d. Assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under National Flood Insurance Program flood insurance policies.

(15) Notify the Federal Emergency Management Agency when the corporate boundaries of the City have been modified, and:

a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to this article has either been assumed or relinquished through

annexation; and

b. If the flood insurance rate map for any annexed area includes special flood hazard areas that have flood zones subject to requirements that are not set forth in this article:

1. Prepare proposed amendments to this article to adopt the flood insurance rate map and appropriate requirements;

2. Request that the Mayor submit the proposed amendments to City Council for consideration at the same time as or prior to the date of annexation; and

3. Provide the Division of Dam Safety and Floodplain Management of the Virginia Department of Conservation and Recreation and the Federal Emergency Management Agency with copies of amendments to this article.

(16) Upon the request of the Federal Emergency Management Agency, complete and submit a report concerning participation in the National Flood Insurance Program. The Federal Emergency Management Agency may request information regarding the number of buildings in the special flood hazard area, the number of permits issued for development in the special flood hazard area, and the number of variances issued for development in the special flood hazard area.

(17) Take into account flood, mudslide, and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire City, whether or not such hazards have been specifically delineated geographically by mapping, surveying or other appropriate methodology.

(18) To the extent not otherwise specified herein, be responsible for the City's compliance with 44 CFR 59.22, as may be applicable.

(Code 2004, § 50-39; Code 2015, § 14-55; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-56. Use and interpretation of flood insurance rate maps.

The Director shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of flood insurance rate maps:

(1) Where field surveyed topography indicates that adjacent ground elevations:

a. Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a flood insurance rate map, the area shall be considered as a special flood hazard area and subject to the requirements of this article; and

b. Are above the base flood elevation, the area shall be regulated as a special flood hazard area, unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

(2) In special flood hazard areas identified by the Federal Emergency Management Agency where base flood elevation and floodway data have not been identified and in areas where the Federal Emergency Management Agency has not identified special flood hazard areas, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(3) Base flood elevations and designated floodway boundaries on flood insurance rate maps and in flood insurance studies shall take precedence over base flood elevations and floodway boundaries by any other sources if such other sources show reduced floodway widths or lower base flood elevations.

(4) Other sources of data shall be reasonably used if such sources show increased base flood elevations or larger floodway areas than are shown on flood insurance rate maps and in flood insurance studies.

(5) If a preliminary flood insurance rate map or a preliminary flood insurance study has been provided by the Federal Emergency Management Agency:

a. Upon the issuance of a letter of final determination by the Federal Emergency Management Agency, the preliminary flood hazard data shall be used and shall replace the flood hazard data

previously provided from the Federal Emergency Management Agency for the purposes of administering this article.

b. Prior to the issuance of a letter of final determination by the Federal Emergency Management Agency, the use of preliminary flood hazard data shall be deemed the best available data and used where no base flood elevations or floodway areas are provided on the effective flood insurance rate map.

c. Prior to issuance of a letter of final determination by the Federal Emergency Management Agency, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations or designated floodway widths in existing flood hazard data provided by the Federal Emergency Management Agency. Such preliminary data may be subject to change and to appeal to the Federal Emergency Management Agency.

(Code 2004, § 50-40; Code 2015, § 14-56; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-57. Establishment of floodplain districts.

In order to accomplish the purposes of this division, floodplain districts are hereby established and shall include those areas of the City subject to inundation by waters of the 100-year flood. The basis for delineation of such districts shall be the flood insurance study for the City prepared by the Federal Emergency Management Agency, dated December 15, 1978, as revised, effective July 20, 1998, April 2, 2009, and July 16, 2014, and any subsequent revisions or amendments thereto.

(Code 2004, § 50-41; Code 2015, § 14-57; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-58. District boundaries; official floodplain map.

The boundaries of the floodplain districts are established as shown on the flood insurance rate maps, flood boundary maps, and floodway maps, prepared by the Federal Emergency Management Agency, dated June 15, 1979, as revised, effective July 20, 1998, April 2, 2009, and July 16, 2014, and any subsequent revisions or amendments thereto, which maps are incorporated by reference into this division. The flood insurance rate maps, flood boundary maps, and floodway maps, together with the flood insurance study for the City, shall be kept on file in the Office of the Director.

(Code 2004, § 50-42; Code 2015, § 14-58; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-59. Types of floodplain districts.

(a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the City's flood insurance study and the flood insurance rate maps for the City prepared by the Federal Insurance Administration of the Federal Emergency Management Agency, dated June 15, 1979, as revised, effective July 20, 1998, April 2, 2009, and July 16, 2014, and any subsequent revisions or amendments thereto. The Director may identify and regulate local flood hazard or ponding areas that are not delineated on the flood insurance rate maps. Such areas may be delineated on a local flood hazard map using the best available topographic data and locally derived information, such as flood of record, historic high water marks or approximate study methodologies. The boundaries of the special flood hazard area districts are established as shown on the flood insurance rate map which are incorporated by reference into this article and which shall be kept on file by the Director. The floodplain districts shall be as follows:

(1) The floodway district shall be those areas within the floodplain that are capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in the floodway district are specifically defined in the flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map. Within any floodway area of the floodway district of an AE Zone, no encroachments, including infill, new construction, substantial improvements or other development shall be permitted, unless the party requesting the encroachment has demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of

demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses and computations shall be submitted in sufficient detail to allow a thorough review by the Director.

(2) The flood fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of the flood fringe district shall be the 100-year flood elevations contained in the flood profiles of the flood insurance study and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.

(3) The approximated floodplain district shall be those areas identified as an A or A Zone on the maps accompanying the flood insurance study. In these zones, no detailed flood profiles or elevations are provided, but the 100-year floodplain boundary has been approximated.

(b) *Overlay concept.*

(1) The floodplain districts described in subsection (a) of this section shall be overlays to the existing underlying districts as shown on the official zoning map referred to in Section 30-200, and the provisions of this article concerning floodplain districts shall supplement the underlying zoning regulations set forth in Chapter 30.

(2) If there is any conflict between the provisions or requirements of this division and the provisions or requirements of Chapter 30, the provisions or requirements of this division shall apply.

(Code 2004, § 50-43; Code 2015, § 14-59; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-60. Interpretation of district boundaries.

Any person questioning or contesting the interpretation of any district boundary shall be afforded reasonable opportunity to present supporting evidence and technical data to the Director for review and consideration. Following any such review and consideration, the Director shall be responsible for the interpretation of the boundaries of the floodplain districts and the Director's interpretation of the boundaries of the floodplain districts shall apply for purposes of this article.

(Code 2004, § 50-44; Code 2015, § 14-60; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-61. Determination of flood elevations for approximate floodplain districts.

Where the specific 100-year flood elevation and floodway area for an approximate floodplain district cannot be determined from such sources of data as the United States Army Corps of Engineers Floodplain Information Reports, the United States Geological Survey Flood-Prone Quadrangle or such other source acceptable to the Director, the applicant for the proposed development or land-disturbing activity shall determine the elevation in accordance with hydrologic and hydraulic engineering techniques. Such analyses shall be undertaken only by a licensed professional engineer, who shall certify that the technical methods used reflect currently accepted engineering concepts. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review by the Director, who shall accept or reject the applicant's determination of the elevation for purposes of implementing this article. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

(Code 2004, § 50-45; Code 2015, § 14-61; Ord. No. 2014-95-66, § 2, 4-28-2014)

Sec. 14-62. District boundary changes; overlay concept.

The delineation of any floodplain district boundary may be revised by an ordinance adopted by the City Council where natural or manmade changes have occurred so as to alter the floodway or the area subject to inundation by waters of the 100-year flood or more detailed studies conducted or undertaken by the United States Army Corps of Engineers or other qualified agency, firm or individual documents the need for such revision. Prior to any such revision, approval shall be obtained in writing from the Federal Insurance Administration of the Federal Emergency Management Agency.

(Code 2004, § 50-46; Code 2015, § 14-62; Ord. No. 2014-95-66, § 2, 4-28-2014)

Secs. 14-63—14-82. Reserved.

DIVISION 3. DISTRICT REGULATIONS

Sec. 14-83. Floodplain districts generally.

(a) *Permits required.* No development or land-disturbing activity within a designated floodplain district shall be undertaken until after issuance of a building permit or land-disturbing activity permit as required by Article III of this chapter. For the purpose of issuance of a permit, the 100-year flood elevation shall be the base floodwater surface elevation, with floodway, as shown in Table 2, floodway data of the flood insurance study dated December 15, 1978, and as revised effective July 20, 1998, April 2, 2009, July 16, 2014, and any subsequent revisions or amendments thereto.

(b) *Compliance with building code.* No development shall be permitted within any floodplain district except in strict compliance with the applicable sections of the Virginia Uniform Statewide Building Code.

(c) *Effect on capacity of floodways and watercourses.* No development or land-disturbing activity shall be permitted which would adversely affect the capacity of any floodway or watercourse subject to this article.

(d) *Alteration or relocation of watercourses.* Prior to any alteration or relocation of any watercourse, approval shall be obtained from the United States Army Corps of Engineers, the State Water Control Board, and the Virginia Marine Resources Commission; a joint permit application is available from any of these organizations. Furthermore, notification of such proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation of the Virginia Department of Conservation and Recreation, and the Federal Emergency Management Agency. The applicant shall be responsible for obtaining such approval and providing required notices. Proof of approval by the United States Army Corps of Engineers, the State Water Control Board, and the Virginia Marine Resources Commission as well as required notification shall be furnished to the Director prior to issuance of any land-disturbing activity permit.

(e) *Chesapeake Bay Site Plan approval required.* No development or land-disturbing activity shall be undertaken in a Chesapeake Bay Preservation Area until after a Chesapeake Bay Site Plan has been approved in accordance with the requirements of Article IV of this chapter.

(f) *Provision of vehicular access.* No new residential construction, with start of construction on or after December 9, 1991, shall be permitted without the provision of adequate vehicular access to the site at all times prior to and during the 100-year flood. Adequacy of access shall be as determined by the Director, after consultation with and approval by the Fire Marshal.

(Code 1993, § 13-61; Code 2004, § 50-91; Code 2015, § 14-83; Ord. No. 2004-330-320, § 1, 12-13-2004; Ord. No. 2009-12-31, § 1, 2-23-2009; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-84. Design criteria for utilities and facilities.

(a) *Design criteria generally.* The design criteria established by the most recent version of the Virginia Uniform Statewide Building Code and the Virginia Residential Code shall be applicable to utilities and facilities proposed to be installed within any floodplain district. For privately installed sanitary sewer or water facilities which are subject to approval by the District Health Director, the Director shall be satisfied, after conferring with the District Health Director and Commissioner of Buildings, that the applicable sections of the Uniform Statewide Building Code are met. In addition, the following particular design criteria shall be applicable:

(1) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters so as to minimize or eliminate damage to persons or property. The system shall ensure drainage away from buildings and on-site waste disposal sites. The Director may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with and coordinated with local and regional drainage plans. The facilities shall be designed such that the quantity of runoff from a developed site during a ten-year storm event shall not exceed the quantity of runoff from the same site, pre-development, during a ten-year storm event.

(2) *Streets and sidewalks.* Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels. Drainage openings shall be provided to sufficiently discharge floodwaters without unduly increasing flood heights from the ten-year storm event.

(3) *On-site waste disposal systems.* On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(b) *Standards for flood fringe and approximated floodplain.*

(1) When base flood elevation data or floodway data have not been provided, the Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or any other source, in order to administer the provisions of this article. When such base flood elevation data is utilized, the Director shall obtain:

a. The elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and

b. If the structure has been floodproofed in accordance with Federal Emergency Management Agency requirements, the elevation in relation to the mean sea level to which the structure has been floodproofed.

(2) When the data is not available from any source, the lowest floor of the structure shall be elevated to no lower than the highest adjacent grade.

(c) *Standards for the floodway district.* The following provisions shall apply within the floodway district:

(1) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited, unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

(2) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the property owner or designated representative first applies, with the City's endorsement, for a conditional flood insurance rate map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

(3) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(4) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring, elevation, and encroachment standards are met.

(Code 1993, § 13-63; Code 2004, § 50-93; Code 2015, § 14-84; Ord. No. 2009-12-31, § 1, 2-23-2009; Ord. No. 2014-95-66, § 3, 4-28-2014)

Cross reference—Utilities, Ch. 28.

Sec. 14-85. Subdivision requirements.

In addition to those requirements set forth elsewhere in this Code relative to the subdivision of land, the following requirements shall apply to any proposed subdivision and any portion of a proposed subdivision that lies within a floodplain district:

(1) The 100-year floodplain shall be delineated on tentative and final subdivision plats.

(2) Residential building lots shall be provided with adequate buildable area outside of the 100-year floodplain.

(3) The design criteria for utilities and facilities set forth in this article shall be met.

(Code 1993, § 13-64; Code 2004, § 50-94; Code 2015, § 14-85; Ord. No. 2009-12-31, § 1, 2-23-2009)

Cross reference—Subdivision of land, Ch. 25.

Sec. 14-86. Existing structures.

Structures and uses of structures that lawfully existed at the effective date of the ordinance from which this article is derived or of subsequent amendment of this article, and that do not conform with this article or any

amendment hereto may be continued subject to the following conditions:

(1) Existing structures and uses located within a floodway district shall not be expanded or enlarged, unless the effect of proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

(2) Any repair, reconstruction or improvement of an existing structure within a floodplain district to an extent so as to constitute substantial improvement as defined in this article shall be undertaken only in full compliance with the Uniform Statewide Building Code.

(Code 1993, § 13-65; Code 2004, § 50-95; Code 2015, § 14-86; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-87. Manufactured homes and recreational vehicles.

(a) *Manufactured homes.* Manufactured homes that are placed or substantially improved on-site shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and at least three feet above grade; the chassis shall be securely anchored to an adequately anchored foundation system of reinforced piers or other foundation elements of at least equivalent strength to resist flotation, collapse, and lateral movement.

(b) *Recreational vehicles.* Recreational vehicles placed on sites shall either:

(1) Be on-site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use (i.e., be on their wheels or jacking system, be attached to the site by quick-disconnect-type utilities and security devices, and have no permanently attached additions); or

(3) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in subsection (a) of this section.

(Code 1993, § 13-66; Code 2004, § 50-96; Code 2015, § 14-87; Ord. No. 2009-12-31, § 1, 2-23-2009; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-88. New construction and substantial improvements.

(a) All substantial improvements to existing structures or new construction within any floodplain district shall conform to the applicable sections of the Virginia Uniform Statewide Building Code.

(b) New construction or substantial improvement of any existing commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(c) For historic structures as defined in this article, where elevation is not preferable, floodproofing may be allowed instead of elevation one foot above the base flood elevation. A registered professional engineer or architect shall certify on the certificate plans and floodproofing certificate that the construction design and methods meet the applicable requirements and shall submit such certificate to the Director.

(d) Fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access or storage and shall have permanent openings designed to allow the entry and exit of floodwaters in accordance with specifications as set forth at 44 CFR 60.3(c)(5).

(Code 1993, § 13-67; Code 2004, § 50-97; Code 2015, § 14-88; Ord. No. 2009-12-31, § 1, 2-23-2009; Ord. No. 2014-95-66, § 3, 4-28-2014)

Secs. 14-89—14-119. Reserved.

DIVISION 4. ADMINISTRATION AND ENFORCEMENT

Sec. 14-120. Required permits.

(a) *Building permits.* For the purposes of this article, building permits shall be obtained as follows:

(1) A building permit to erect, construct, reconstruct, enlarge, extend or structurally alter any building or

structure within a floodplain district shall be required as set forth in the Virginia Uniform Statewide Building Code. Applications for building permits shall be filed with the Commissioner of Buildings, and no such permit shall be issued until the applicant has furnished satisfactory evidence that all necessary permits have been received from those governmental agencies from which approval is required by State and Federal law.

(2) In addition to information required by the Virginia Uniform Statewide Building Code to be provided in conjunction with building permit applications, the following shall be included when the property involved is located within a floodplain district:

a. The elevation of the 100-year flood and delineation of the 100-year floodplain;

b. The elevation of the lowest floor, including basement; and

c. The elevation to which a nonresidential structure is to be floodproofed.

(b) *Permits for land-disturbing activities.* Permits for land-disturbing activities shall be obtained as follows:

(1) A permit for any land-disturbing activity within a floodplain district shall be required as set forth in Article III of this chapter which pertains to site control, erosion and drainage, provided that the exceptions contained therein shall not be applicable within floodplain districts.

(2) For land-disturbing activity proposed in conjunction with construction for which a building permit application has been filed, a site grading and drainage plan shall be approved by the Director prior to issuance of the building permit, and a separate land-disturbing activity permit shall be required.

(3) Application for land-disturbing activity permits shall be made to the Director, and no such permit shall be issued nor shall any site grading and drainage plan be approved until the applicant has furnished satisfactory evidence that all necessary permits have been received from those governmental agencies from which approval is required by State and Federal law, and until the Director is satisfied that the applicable sections of this article and the site control, erosion and drainage regulations are met.

(4) The 100-year floodplain shall be delineated on all plans submitted for approval of land-disturbing activity and site grading and drainage.

(c) *Chesapeake Bay Site Plan.* A Chesapeake Bay Site Plan shall be required for any property located within a Chesapeake Bay Preservation Area in accordance with Article IV of this chapter.

(Code 1993, § 13-82; Code 2004, § 50-122; Code 2015, § 14-120; Ord. No. 2004-330-320, § 1, 12-13-2004; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-121. Modifications to requirements of building code.

(a) *Notification of cost of flood insurance.* Upon granting a modification to construct a structure below the 100-year flood level, the Building Code Board of Appeals shall notify the applicant in writing that the cost of flood insurance will be commensurate with the increased risk resulting from such construction.

(b) *Records of modifications granted.* Records shall be maintained by the Building Code Board of Appeals of all modifications granted, including the justification for each, and shall be included in any reports required by and submitted to the Federal Emergency Management Agency (FEMA).

(Code 1993, § 13-83; Code 2004, § 50-123; Code 2015, § 14-121)

Cross reference—Building code, § 5-1.

Sec. 14-122. Special exceptions.

(a) *Conditions.* The Director shall have the authority set forth in 44 CFR 60.6 to grant special exceptions to the sections of this article, other than such sections as pertain to the requirements of the Virginia Statewide Uniform Building Code and to the Chesapeake Bay Preservation Act set forth in Article IV of this chapter, provided that the applicant shall furnish sufficient information and documentation to satisfy the Director as to the following factors:

(1) There will be no increased danger to life and property due to increased flood heights or velocities caused by encroachments;

(2) Proposed development or activity within a floodway district will not cause any increase in flood levels during the 100-year flood;

(3) There will be no danger that materials may be swept downstream or onto other properties to the injury of others;

(4) The ability of proposed water supply and sanitation systems to avoid contamination and unsanitary conditions;

(5) The susceptibility of the proposed development and its contents to flood damage will be minimal;

(6) The expected heights, velocity, duration, rate of rise and sediment transport of floodwaters at the site will be acceptable in view of the purposes of this article;

(7) The availability of necessary access to the facility prior to and during periods of flooding;

(8) The requirements of the proposed development or activity for a waterfront location and the lack of availability of suitable alternative locations not subject to flooding or not requiring the issuance of a special exception;

(9) The appropriateness of the proposed development or activity with regard to the City's master plan;

(10) The proposed development or activity will not result in any conflict with the purposes of this article or with other codes and ordinances that may be applicable;

(11) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the special exception is the minimum necessary to preserve the historic character and design of the structure; and

(12) The exception shall be the minimum required to provide relief from the exceptional hardship to the applicant.

(b) *Notification of cost of flood insurance.* Upon issuance of a special exception for any development or activity below the 100-year flood level, the Director shall notify the applicant in writing that the cost of flood insurance will be commensurate with the increased risk resulting from such development or activity.

(c) *Records of special exceptions issued.* The Director shall maintain records of all special exceptions granted, including the justification for each, and shall include any applicable records in reports required by and submitted to the Federal Insurance Administrator.

(Code 1993, § 13-84; Code 2004, § 50-124; Code 2015, § 14-122; Ord. No. 2004-330-320, § 1, 12-13-2004; Ord. No. 2009-12-31, § 1, 2-23-2009; Ord. No. 2014-95-66, § 3, 4-28-2014)

Sec. 14-123. Appeals.

Final decisions of the Director relative to interpretation of the sections of this article, the interpretation of floodplain district boundaries and the granting or denying of special exceptions shall be subject to review by the Circuit Court of the City, provided an appeal is filed within 30 days from the date of the final written decision of the Director.

(Code 1993, § 13-85; Code 2004, § 50-125; Code 2015, § 14-123)

Sec. 14-124. Penalties.

A violation of the terms of this article shall be deemed to be a Class 1 misdemeanor and, upon conviction, shall be punishable as provided in Section 1-16. In addition, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations within a reasonable time. The City may maintain an action to compel a responsible party to abate, raze, or remove any public nuisance arising from any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article in accordance with Code of Virginia, § 15.2-900 or as otherwise authorized by law. Flood insurance may be withheld from structures constructed in violation of this article.

(Code 1993, § 13-86; Code 2004, § 50-126; Code 2015, § 14-124; Ord. No. 2014-95-66, § 3, 4-28-2014)

Secs. 14-125—14-146. Reserved.

ARTICLE III. EROSION AND SEDIMENT CONTROL*

***State law reference—**Erosion and Sediment Control, Code of Virginia, § 62.1-44.15:51 et seq.

Sec. 14-147. Title, purpose, and authority.

(a) This article shall be known as the "Erosion and Sediment Control Ordinance of the City of Richmond." The purpose of this article is to prevent degradation of properties, stream channels, waters, and other natural resources of the City by establishing requirements for the control of soil erosion, sediment deposition, and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

(b) This article is authorized by the Erosion and Sedimentation Control Law (Code of Virginia, § 62.1-44.15:51 et seq.).

(Code 2004, § 50-191; Code 2015, § 14-147; Ord. No. 2014-116-89, § 1, 5-27-2014)

Sec. 14-148. Definitions.

Terms defined in Code of Virginia, § 62.1-44.15:51 and the Virginia Erosion and Sediment Control Regulations (9VAC25-840-10 et seq.) have those meanings when used in this article. In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the State Erosion and Sediment Control Law codified as Code of Virginia, § 62.1-44.15:51 et seq.

Administrator means the Director of Public Utilities or his or her designee. For purposes of this article, the Administrator also is the plan-approving authority, with the authority to review and approve or disapprove erosion and sediment control plans in both the combined sewer system service area and the municipal separate storm sewer system service area of the City.

Agreement in lieu of a plan means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a detached, separately built single-family residence, which contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a Richmond Stormwater Management Program Permit under Article V of this chapter, when required, authorizing land-disturbing activities to commence.

Board means the Virginia Soil and Water Conservation Board.

Certified inspector means an employee of the program authority who:

(1) Holds a certificate of competence from the Board in the area of project inspection; or

(2) Is enrolled in the Department of Environmental Quality's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer means an employee or agent of the program authority who:

(1) Holds a certificate of competence from the State Water Control Board in the area of plan review;

(2) Is enrolled in the State Water Control Board training program for plan review and successfully completes such program within one year after enrollment; or

(3) Is licensed as a professional engineer, architect, landscape architect or land surveyor pursuant to Code of Virginia, Title 54, Ch. 4, Art. 1 (Code of Virginia, § 54.1-400 et seq.), or professional soil scientist as defined in Code of Virginia, § 54.1-2200.

Certified program administrator means an employee of the program authority who:

(1) Holds a certificate of competence from the Board in the area of program administration; or

(2) Is enrolled in the Department of Environmental Quality training program for program administration and successfully completes such program within one year after enrollment.

City means the City of Richmond.

Clearing means any activity which removes the vegetative ground cover, including, but not limited to, root mat removal or topsoil removal.

Department of Environmental Quality means the Virginia Department of Environmental Quality.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

Director means the Director of Public Utilities or his or her designee.

Erosion and sediment control plan means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan-approving authority to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land determined by the Administrator as not being associated with current land-disturbing activity, but as being subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into State waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating means any digging, scooping or other methods of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

Grading means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity means, for the purpose of this article, any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth, including, but not limited to, by means of clearing, grading, excavating, transporting or filling of land, except that the term shall not include:

(1) Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs and maintenance work;

(2) Individual service connections;

(3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

(4) Septic tank lines or drainage fields, unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

(5) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Code of Virginia, Title 54.1;

(6) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops, unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia, Title

10.1, Ch. 11 (Code of Virginia, § 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, § 10.1-1163(B);

(7) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(8) Disturbed land areas of less than 4,000 square feet in size, or less than 2,500 square feet in all areas of the City designated as Chesapeake Bay Preservation Act Areas pursuant to Article IV of this chapter;

(9) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(10) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and regulations adopted thereto; and

(11) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

Land-disturbing permit means a permit issued by the City for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein. Land-disturbing permits will be issued in the areas of the City served by the combined sewer system. In areas served by the municipal separate storm sewer system, any person who wishes to undertake land-disturbing activities, as defined in Article V of this chapter, will be required to obtain a Richmond Stormwater Management Program Permit. Also, in areas served by the municipal separate storm sewer system, any person who wishes to undertake land-disturbing activities that do not require a Richmond Stormwater Management Program Permit, but that do require compliance with this article, will be required to obtain a land-disturbing permit.

Local erosion and sediment control program means the various methods employed by the City to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the State program, and may include such elements as local ordinances, rules and regulations, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

Owner means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

Permittee means the person to whom the land-disturbing permit is issued under this article, or to whom the Richmond Stormwater Management Program Permit authorizing land-disturbing activities is issued under Article V of this chapter.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

Program authority means the City, which has adopted a soil erosion and sediment control program that has been approved by the State Water Control Board.

Responsible land disturber means an individual retained or employed by, or otherwise associated with the person applying for the Richmond Stormwater Management Program Permit or land-disturbing permit, or entering into an agreement in lieu of a plan, and who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

(1) Holds a responsible land disturber certificate of competence from the Department of Environmental Quality;

(2) Holds a current certificate of competence from the State Water Control Board in combined administration, program administration, inspection, or plan review; or

(3) Is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, Title 54.1, Ch. 4, Art. 1 (Code of Virginia, § 54.1-400 et seq.).

Richmond Stormwater Management Program Permit means an approval to initiate and conduct a land-disturbing activity under Article V of this chapter.

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Single-family residence means a detached building completely separated from any other main building and containing only one dwelling unit.

Stabilized means an area that can be expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.

State means the Commonwealth of Virginia.

State erosion and sediment control program means the program administered by the State Water Control Board pursuant to the Act, including administrative regulations designed to minimize erosion and sedimentation.

State Water Control Board means the Virginia State Water Control Board.

State waters means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Subdivision means a division, subdivision, or resubdivision of a lot, tract, or parcel of land situated wholly or partially within the corporate City limits into three or more lots, tracts, or parcels of land for the purpose, whether immediate or in the future, of transferring ownership of any one or more of such lots, tracts, or parcels of land or for the purpose of the erection of buildings or other structures on any one or more of such lots, tracts, or parcels of land. The term "subdivision" shall not include a division of land for agricultural purposes in parcels of one acre or more, the average width of which is not less than 150 feet, when such division:

(1) Does not require the opening of any new street or the use of any new public easement of access;

(2) Does not obstruct, or is not likely to obstruct, natural drainage;

(3) Does not adversely affect, and is not likely to adversely affect, the establishment of any expressway, major street, primary highway, or toll road; or

(4) Does not adversely affect the execution or development of any plat or subdivision approved by the City Planning Commission, or otherwise adversely affect the orderly subdivision of contiguous property.

Ten-year frequency storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in ten years. It may also be expressed as an exceedence probability with a ten percent chance of being equaled or exceeded in any given year.

Two-year frequency storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedence probability with a 50 percent chance of being equaled or exceeded in any given year.

Water quality volume means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

(Code 2004, § 50-192; Code 2015, § 14-148; Ord. No. 2014-116-89, § 1, 5-27-2014)

Cross reference—Definitions generally, § 1-2.

Sec. 14-149. Local erosion and sediment control plan.

(a) The City hereby adopts by reference the regulations, references, guidelines, standards and specifications promulgated by the State Water Control Board and the City's Chesapeake Bay Public Information Manual for those

projects located within a Chesapeake Bay Preservation Area for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Such regulations, references, guidelines, standards and specifications for erosion and sediment control and any amendments thereto also shall include, but not be limited to, the Virginia Erosion and Sediment Control Regulations (9VAC25-840-10 et seq.) and the Virginia Erosion and Sediment Control Handbook published by the Virginia Department of Conservation and Recreation, as amended.

(b) In accordance with Code of Virginia, § 62.1-44.15:52, for any plan approved prior to July 1, 2014, stream restoration and relocation projects that incorporate natural channel design concepts are not manmade channels and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

(c) In accordance with Code of Virginia, § 62.1-44.15:52, for any plan approved prior to July 1, 2014, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to:

(1) Detain the water quality volume and to release it over 48 hours;

(2) Detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and

(3) Reduce the allowable peak flow rate resulting from the 1 1/2-year, two-year, and ten-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site, assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements of this subsection shall be satisfied by compliance with water quantity requirements in the Stormwater Management Act (Code of Virginia, § 62.1-44.15:24 et seq.) and attendant regulations, unless such land-disturbing activities are in accordance with 9VAC25-870-48 of the Virginia Stormwater Management Program Permit Regulations.

(d) Pursuant to Code of Virginia, § 62.1-44.15:52, for any plan approved prior to July 1, 2014, an erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The City's erosion control program shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

(e) The program and regulations provided for in this article shall be made available for public inspection at the Office of the Department of Public Utilities.

(Code 2004, § 50-193; Code 2015, § 14-149; Ord. No. 2014-116-89, § 1, 5-27-2014)

Sec. 14-150. Submission and approval of plans; content of plans.

(a) Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the Administrator an erosion and sediment control plan for the land-disturbing activity, and the Administrator has issued one of the following permits:

(1) A Richmond Stormwater Program Permit pursuant to Article V of this chapter;

(2) A land-disturbing permit if the land-disturbing activity will occur within the City's combined sewer system service area; or

(3) A land-disturbing permit if the land-disturbing activity will occur within the City's municipal separate storm sewer system service area and compliance is required under this article, but not under Article V of this chapter.

No person shall conduct land-disturbing activity unless and until the Administrator has issued a Richmond Stormwater Management Program Permit, or a land-disturbing permit for the land-disturbing activity. If the land-disturbing activity results from the construction of a detached, separately built single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-

approving authority.

(b) The applicant shall adhere to the standards contained within the Virginia Erosion and Sediment Control Regulations (9VAC25-840-10 et seq.) and the Virginia Erosion and Sediment Control Handbook when making a submittal under the provisions of this article and in the preparation of an erosion and sediment control plan. The Administrator, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations, and guidelines. When the standards vary between the publications, the restrictive standards shall take precedence.

(c) The Administrator shall review submitted conservation plans and grant written approval within 60 days of the receipt of the erosion and sediment control plan if the Administrator determines that the plan meets the requirements of the State Water Control Board's regulations and if the person responsible for carrying out the plan certifies that he or she will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to plan approval, the person responsible for carrying out the plan shall provide the City with the name of an individual who holds a certificate of competence, as provided by Code of Virginia, § 62.1-44.15:55, and who will be in charge of, and responsible for, carrying out the land-disturbing activity. Failure to provide the name of an individual responsible land disturber holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties set forth in this article.

(d) The Administrator shall act on the erosion and sediment control plan within 60 days from receipt of a complete application by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

(e) When the erosion and sediment control plan is determined to be inadequate, the Administrator shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved, and the person shall be authorized to proceed with the proposed activity.

(f) The Administrator may modify an approved erosion and sediment control plan if:

(1) An inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the Administrator and the person responsible for carrying out the plans.

(g) In order to prevent further erosion, the City may require approval of a plan for any land identified in the local program as an erosion impact area.

(h) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(i) State agency projects are exempt from the provisions of this article, except as provided for in Code of Virginia, § 62.1-44.15:56.

(Code 2004, § 50-194; Code 2015, § 14-150; Ord. No. 2014-116-89, § 1, 5-27-2014)

Sec. 14-151. Variances.

The Administrator may waive or modify any of the requirements that are deemed to be too restrictive for site conditions by granting a variance. A variance may be granted when all of the following conditions are satisfied:

(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for any requested variance in writing. The Administrator shall document any granted variances in the plan.

(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the Administrator. The Administrator shall respond in writing either approving or disapproving such a request. If the Administrator does not approve a variance within ten days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

(Code 2004, § 50-195; Code 2015, § 14-151; Ord. No. 2014-116-89, § 1, 5-27-2014)

Sec. 14-152. Permits and fees.

(a) No person may engage in any land-disturbing activity until such person has obtained a Richmond Stormwater Management Program Permit issued under Article V of this chapter, or, for land-disturbing activities that will occur within the City's combined sewer system service area, or for land-disturbing activities that will occur within the City's separate storm sewer system service area that require compliance with this article but not with Article V of this chapter, until such person has obtained a land-disturbing permit from the Administrator.

(b) Prior to the issuance of a Richmond Stormwater Management Program Permit issued pursuant to Article V of this chapter or a land-disturbing permit, a building permit or a demolition permit, the Administrator must have approved the erosion and sediment control plan as conforming to this article.

(c) An administrative fee shall be paid to the City at the time of submission of the erosion and sediment control application if land-disturbing activities will occur within the combined sewer system service area or within the City's separate storm sewer system service area pursuant to this article. If land-disturbing activity will occur such that a Richmond Stormwater Management Program Permit must be obtained pursuant to Article V of this chapter, the applicant shall pay the fee for the Richmond Stormwater Management Program Permit approval. The permit fee shall be $300.00 for the first acre or fraction thereof, and $100.00 for each additional acre or fractional part of an acre in excess of one acre. The maximum allowable fee shall be $1,000.00. Any person who has obtained a land-disturbing permit issued in accordance with subsection (a) of Section 14-150 and whose erosion and sediment control plans are revised after any such permit is issued shall pay a revised plans fee in the amount of ten percent of the initial permit fee or $50.00, whichever is greater.

(d) No Richmond Stormwater Management Program Permit issued pursuant to Article V of this chapter shall be issued unless and until the applicant submits with his or her application an approved erosion and sediment control plan and certification that the plan will be followed.

(e) The Administrator may require any applicant for a land-disturbing permit to allow land-disturbing activities within the combined sewer system service area or within the City's separate storm sewer system service area to provide the City with a performance bond, a cash escrow, or an irrevocable letter of credit acceptable to the Administrator, to ensure that the City can take measures at the applicant's expense if the applicant fails, after proper notice, and within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.

(f) The amount of the bond or other security for performance provided by subsection (e) of this section shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the City and a reasonable allowance for estimated administrative costs and inflation, which such allowance shall not exceed 25 percent of the cost of the conservation action. Should it be necessary for the City to take such conservation action, the City may collect from the applicant any costs in excess of the amount of the surety held.

(g) Within 60 days of adequate stabilization of a project governed by subsection (e) of this section, as determined by the Administrator, in any project or section of a project, the Administrator shall either refund or terminate such bond, cash escrow, or letter of credit, or the unexpended or un-obligated portion thereof, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(Code 2004, § 50-196; Code 2015, § 14-152; Ord. No. 2008-106-85, § 3, 5-12-2008; Ord. No. 2014-116-89, §§ 1, 4, 5-27-2014; Ord. No. 2019-066, § 1, 5-13-2019)

Sec. 14-153. Monitoring, reports and inspections.

(a) The Administrator shall, as a part of approving an erosion and sediment control plan, require that an individual holding a responsible land disturber certificate, be subject to monitoring and reports by a certified inspector or the Administrator, or both. The person responsible for carrying out the erosion and sediment control plan shall maintain records of the inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) The Administrator shall periodically inspect the land-disturbing activity in accordance with section 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

(c) If the Administrator determines that there is a failure to comply with the erosion and sediment control plan, the Administrator is authorized to pursue any and all methods of enforcement set forth in Section 14-154 or Section 14-335, or both. Additionally, if the Administrator determines that there is a failure to comply with the erosion and sediment control plan, a notice to comply shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

(d) The notice to comply shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article, and the City may pursue legal action against the permittee or person responsible.

(e) Upon determination of a violation of this article, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

(f) If land-disturbing activities have commenced without an approved plan, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

(g) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

(h) The order shall be served in the same manner as a notice to comply, and shall remain in effect until rescinded by the Administrator.

(i) If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the plan-approving authority may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the Office of the City Assessor.

(j) Any person violating or failing, neglecting or refusing to timely obey an order issued by the plan-approving authority may be compelled in a proceeding instituted in the Circuit Court of the City of Richmond to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

(k) Nothing in this section shall prevent the plan-approving authority from taking any other action authorized by this article.

(Code 2004, § 50-197; Code 2015, § 14-153; Ord. No. 2014-116-89, § 1, 5-27-2014)

Sec. 14-154. Penalties, injunctions and other legal actions.

(a) Violators of this article shall be guilty of a Class 1 misdemeanor.

(b) The City, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may petition the Circuit Court of the City of Richmond to enjoin a violation or threatened violation of this article without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless:

(1) Such owner has notified, in writing, the person who has violated the local program and the program authority that a violation of the local program has caused, or creates a probability of causing, damage to

his property; and

(2) Neither the person who has violated the local program nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to such owner's property.

(c) Without limiting the remedies that may be obtained in this section, any person who violates or fails, neglects, or refuses to obey any injunction, mandamus, or other remedy obtain pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed $2,000.00 for each violation. A civil action for such violation or failure may be brought by the City where the land lies. Any civil penalties assessed by a court shall be paid into the City's treasury.

(d) Any person who has violated or failed, neglected, or refused to obey any order, notice or requirement of the plan-approving authority, the Administrator, or the City, any condition of a permit, or any provision of this article or associated regulation shall, upon the finding of an appropriate court, be assessed a civil penalty. The civil penalty for any one violation shall be not less than $100.00 nor more than $1,000.00. Each day during which the violation is found to have existing shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of $10,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of $10,000.00.

(e) If the City pursues a civil penalty, it shall do so by issuing a summons for collection of the civil penalty. In any trial for a scheduled violation, it shall be the City's burden to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose.

(f) With the consent of any person who has violated or failed, neglected, or refused to obey any order, notice or requirement of the City, any condition of a permit, or any provision of this article, the City may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (c) of this section. Such civil charges shall be instead of any appropriate civil penalty that could be imposed under subsection (c) or (d) of this section.

(g) In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to the City in a civil action for damages.

(h) The City Attorney shall, upon request of the Administrator, take legal action to enforce the provisions of this article.

(i) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation, or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(j) Appeals by alleged violators shall be governed by the Act.

(Code 2004, § 50-198; Code 2015, § 14-154; Ord. No. 2014-116-89, § 1, 5-27-2014)

State law reference—Penalties, Code of Virginia, § 62.1-44,15:63; civil penalty authorized, Code of Virginia, § 62.1-44.15:54(G).

Sec. 14-155. Appeals of plan denials.

(a) *Right of appeal.* Any applicant who is aggrieved by any action of the plan-approving authority in disapproving plans submitted pursuant to this article shall have the right to file an appeal of such action with the Director. Such appeal shall be filed within 30 days from the date of the action appealed.

(b) *Scheduling of hearing.* Within 15 days of the date on which the applicant files the appeal in the Office of the Director, the Director shall schedule a hearing thereon at which both the applicant and the plan-approving authority representative may be heard. Such hearing shall be scheduled no sooner than 30 days after the Director furnishes the applicant and the plan-approving authority representative with written notice of the date, time and location of the hearing.

(c) *Review and decision.* The Director shall review the evidence and arguments by both the applicant and

the plan-approving authority representative. Such evidence and arguments may be submitted in writing prior to the hearing or presented during the hearing. No later than 15 days after the hearing described in subsection (b) of this section, the Director shall issue to the applicant and the plan-approving authority representative a written decision affirming, reversing or modifying the action of the plan-approving authority.

(d) *Judicial review.* The decision of the Director shall be final, unless the applicant appeals such decision to the Circuit Court of the City of Richmond within 30 days of the date on which the Director issues such decision.

(e) *Administrative procedures.* The Administrator shall develop procedures not inconsistent with this section for the administration of the appeals process set forth in this section.

(Code 2004, § 50-199; Code 2015, § 14-155; Ord. No. 2014-116-89, § 1, 5-27-2014)

State law reference—Judicial appeals, Code of Virginia, § 62.1-44.15:62.

Secs. 14-156—14-178. Reserved.

ARTICLE IV. CHESAPEAKE BAY PRESERVATION AREAS*

***Cross reference**—Building permits within Chesapeake Bay preservation areas, § 5-13; maintenance of sewage treatments systems in Chesapeake Bay preservation areas, § 15-130.

State law reference—Chesapeake Bay Preservation Act, Code of Virginia, § 62.1-44.15:67 et seq.; local ordinances, Code of Virginia, § 62.1-44.15:74.

DIVISION 1. GENERALLY

Sec. 14-179. Authority for article.

This article is issued under the authority of Code of Virginia, § 62.1-44.15:67 et seq. (the Chesapeake Bay Preservation Act, hereinafter "the Act").

(Code 2004, § 50-300; Code 2015, § 14-179; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-180. Purpose of article.

(a) The purpose of this article is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other State waters by minimizing the effects of human activity upon these waters and implementing the Act, which provides for the definition and protection of certain lands called Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries.

(b) This article establishes the criteria that the City of Richmond shall use to determine the extent of the Chesapeake Bay Preservation Areas. This article establishes criteria for use by the City in granting, denying or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas. This article identifies the requirements which the City shall employ to ensure that the use and development of land in Chesapeake Bay Preservation Areas shall be accomplished in a manner that protects the quality of State waters pursuant to Code of Virginia, §§ 62.1-44.15:73 and 62.1-44.15:76.

(Code 2004, § 50-301; Code 2015, § 14-180; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-181. Definitions.

The following words and terms used in this article have the following meanings, unless the context clearly indicates otherwise. In addition, some terms not defined herein are defined in Code of Virginia, § 62.1-44.15:68 and are incorporated by reference herein.

Act means the Chesapeake Bay Preservation Act found in Code of Virginia, Title 62.1, Ch. 3.1, Art. 2.5 (Code of Virginia, § 62.1-44.15:67 et seq.).

Administrator means the Director of Public Utilities or his or her designee. For purposes of this article, the Administrator is also responsible for reviewing and approving or disapproving the site plan required by this chapter and determining whether to grant exceptions from the requirements of this chapter.

Best management practice means schedules of activities, prohibitions of practices, including both structural

and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface water and groundwater systems from the impacts of land-disturbing activities.

Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and State waters from significant degradation due to land disturbances.

Chesapeake Bay Preservation Area means any land designated by the City pursuant to Division 3 of this article and Code of Virginia, § 62.1-44.15:74. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.

Chesapeake Bay Preservation Areas Map means the map adopted by City Council that shows the general location of designated resource preservation areas, resource management areas and intensely developed areas.

Chesapeake Bay Site Plan means a site plan required for any zoning, subdivision or other land development review process that shows any of the following features which are present on the site: tidal wetlands, nontidal wetlands, water bodies with perennial flow, floodplains, highly erodible soils, steep slopes, and highly permeable soils. The plan shall also display the following information: north arrow, scale, acreage of site, limits of Chesapeake Bay Preservation Areas on the property, limits of existing and proposed clearing and grading, areas of existing and proposed impervious cover, existing and proposed topography, and all existing and proposed stormwater management facilities. Site plans submitted to show compliance with the requirements of this article shall also contain:

(1) The location of any sewage disposal systems or reserve drain fields;

(2) The location of all significant plant material, including all trees on-site six inches or greater in diameter at breast height (groups of trees may be outlined);

(3) A description of the impact the development will have on existing vegetation;

(4) All trees to be removed and a description of all steps to be taken to mitigate the impact on existing vegetation; and

(5) A description, including location and design, of all measures to be taken to meet the requirements of Sections 14-263 and 14-264.

City means the City of Richmond.

Department of Environmental Quality means the Virginia Department of Environmental Quality.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

Director means the Director of Public Utilities or his or her designee.

Floodplain means all lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Highly erodible soils means soils (excluding vegetation) with an erodibility index from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soil Survey Handbook of November 1996, in the "Field Office Technical Guide" of the United States Department of Agriculture Natural Resources Conservation Service.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted gravel surface.

Infill means utilization of vacant land in previously developed areas.

Intensely developed areas means those areas designated by the City pursuant to Section 14-233.

Nontidal wetlands means those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the United States Environmental Protection Agency pursuant to Section 404 of the Federal Water Pollution Control Act.

Plan of development, for the purposes of this article, means any process or site plan review in local zoning and land development regulations designed to ensure compliance with Code of Virginia, § 62.1-44.15:74 and with this article, prior to issuance of a building permit.

Public road means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to:

(1) The Erosion and Sediment Control Law (Code of Virginia, § 62.1-44.15:51 et seq.); and

(2) The Virginia Stormwater Management Act (Code of Virginia, § 62.1-44.15:24 et seq.).

This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the City.

Redevelopment means the process of developing land that is or has been previously developed.

Resource management area means that component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area.

Resource protection area means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of State waters.

Silvicultural activities means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation, that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Code of Virginia, § 10.1-1105 and are located on property defined as real estate devoted to forest use under Code of Virginia, § 58.1-3230.

State Water Control Board means the Virginia State Water Control Board.

Substantial alteration means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the resource management area only.

Tidal shore or *shore* means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands means vegetated and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

Use means an activity on the land other than development, including, but not limited to, agriculture, horticulture and silviculture.

Water-dependent facility means a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to:

(1) Ports;

(2) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers;

(3) Marinas and other boat docking structures;

(4) Beaches and other public water-oriented recreation areas; and

(5) Fisheries or other marine resource facilities.

(Code 2004, § 50-302; Code 2015, § 14-181; Ord. No. 2014-116-89, § 2, 5-27-2014)

Cross reference—Definitions generally, § 1-2.

Secs. 14-182—14-200. Reserved.

DIVISION 2. PROGRAM

Sec. 14-201. Program development.

The City shall develop measures necessary to comply with the Act and this article. In conjunction with other State water quality programs, the City shall encourage and promote:

(1) Protection of existing high quality State waters and restoration of all other State waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;

(2) Safeguarding the clean waters of the Commonwealth from pollution;

(3) Prevention of any increase in pollution;

(4) Reduction of existing pollution; and

(5) Promotion of water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the Commonwealth.

(Code 2004, § 50-310; Code 2015, § 14-201; Ord. No. 2004-331-321, § 1, 12-13-2004)

Sec. 14-202. Elements of program.

The City program contains the elements listed below:

(1) The map delineating the limits of designated Chesapeake Bay Preservation Areas as shown on the Chesapeake Bay Preservation Areas Map, consisting of said layer in the City's geographic information system mapping system and as such adopted by City Council. Such referenced map is hereby declared to be a part of this article and may be amended from time to time by the City Council.

(2) Performance criteria, applying in Chesapeake Bay Preservation Areas, that employs the requirements in Division 4 (Section 14-262 et seq.) of this article.

(3) The comprehensive plan which incorporates the protection of Chesapeake Bay Preservation Areas and of the quality of State waters, in accordance with criteria set forth in Title 9, Agency 25, Chapter 830, Part V (9VAC25-830-180 et seq.) of the Virginia Administrative Code.

(4) The subdivision ordinance that:

a. Incorporates measures to protect the quality of State waters in Chesapeake Bay Preservation Areas, as set forth in Title 9, Agency 25, Chapter 830, Part VI (9VAC25-830-180 et seq.) of the Virginia Administrative Code; and

b. Assures that all subdivisions in Chesapeake Bay Preservation Areas comply with the criteria set forth in Division 4 (Section 14-262 et seq.) of this article.

(5) The erosion and sediment control ordinance that requires compliance with the criteria in Division 4 (Section 14-262 et seq.) of this article.

(6) The Virginia Stormwater Management Program ordinance that requires compliance with the criteria in Article V of this chapter.

(7) The Chesapeake Bay Site Plan review required prior to the issuance of a building permit or land-disturbing permit to assure that use and development of land in Chesapeake Bay Preservation Areas is accomplished in a manner that protects the quality of State waters.

(Code 2004, § 50-311; Code 2015, § 14-202; Ord. No. 2014-116-89, § 2, 5-27-2014)

Editor's note—Ord. No. 2016-221, § 1 provides: "That the Chesapeake Bay Preservation Areas Map, incorporated into Chapter 14, Article IV of the Code of the City of Richmond (2015), as amended, by section 14-202(1) thereof, be and is hereby amended to reflect new development and stream determinations as shown on the map entitled "City of Richmond, DPU, Chesapeake

Bay Map Update—2016," prepared by the Department of Public Utilities, and dated July 21, 2016, a copy of which is attached to, incorporated into, and made a part of this ordinance."

Sec. 14-203. Review by City.

The City shall review the information submitted under Section 14-234 and shall approve or reject the Chesapeake Bay Site Plan within 45 days of the receipt thereof. Failure of the City to act within 45 days shall constitute approval of the plan. The City shall approve the Chesapeake Bay Site Plan only if the City finds that the plan meets the performance criteria set forth in this article for the Chesapeake Bay Preservation Area in which the property is located.

(Code 2004, § 50-312; Code 2015, § 14-203; Ord. No. 2014-116-89, § 2, 5-27-2014)

Secs. 14-204—14-229. Reserved.

DIVISION 3. CHESAPEAKE BAY PRESERVATION AREA DESIGNATION CRITERIA

Sec. 14-230. Purpose.

The criteria in this division provide direction for the designation of the ecological and geographic extent of Chesapeake Bay Preservation Areas. Chesapeake Bay Preservation Areas are divided into resource protection areas and resource management areas that are subject to the criteria in Division 4 (Section 14-262 et seq.) of this article. In addition, the criteria in this division provide guidance for the identification of areas suitable for redevelopment that are subject to the redevelopment criteria in Division 4 (Section 14-262 et seq.) of this article.

(Code 2004, § 50-320; Code 2015, § 14-230; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-231. Resource protection areas.

(a) At a minimum, resource protection areas shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of State waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on State waters and aquatic resources.

(b) The resource protection area shall include:

(1) Tidal wetlands;

(2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

(3) Tidal shores;

(4) Such other lands considered by the City to meet the provisions of subsection (a) of this section and to be necessary to protect the quality of State waters and lands delineated on the Chesapeake Bay Preservation Areas Map; and

(5) A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subsections (b)(1) through (4) of this section, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the resource protection area notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with Division 4 (Section 14-262 et seq.) of this article.

(c) Designation of the components listed in subsections (b)(1) through (4) of this section shall not be subject to modification by the City, unless based on reliable, site-specific information as provided for in Section 14-234 and Section 14-263(6).

(d) For the purpose of generally determining whether water bodies have perennial flow, the City may use either the designation of water bodies depicted as perennial on the most recent United States Geological Survey 7 1/2-minute topographic quadrangle map (scale 1:24,000) or a reliable, site-specific determination conducted pursuant to Section 14-234.

(Code 2004, § 50-321; Code 2015, § 14-231; Ord. No. 2014-116-89, § 2, 5-27-2014; Ord. No. 2018-025, § 1, 2-26-2018)

Sec. 14-232. Resource management areas.

(a) Resource management areas shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

(b) A resource management area shall be provided contiguous to the entire inland boundary of the resource protection area. The following land categories shall be considered for inclusion in the resource management area and, where mapping resources indicate the presence of these land types contiguous to the resource protection area, should be included in designations of resource management areas:

(1) 100-year floodplains;

(2) Highly erodible soils, including steep slopes;

(3) Highly permeable soils;

(4) Nontidal wetlands not included in the resource protection area; and

(5) Such other lands considered by the City to meet the provisions of subsection (a) of this section and to be necessary to protect the quality of State waters and lands delineated on the Chesapeake Bay Preservation Areas Map.

(c) Resource management areas shall encompass a land area large enough to provide significant water quality protection through the employment of the criteria in Title 9, Agency 25, Chapter 830, Part IV (9VAC25-830-120 et seq.) and the requirements in Title 9, Agency 25, Chapter 830, Parts II (9VAC25-830-50 et seq.) and V (9VAC25-830-160 et seq.) of the Virginia Administrative Code. For the purpose of mapping those resource management areas, so designated because they buffer designated resource protection areas, the map shall include, at a minimum, a 500-foot buffer around any designated resource protection area and the limits of any land categories listed in subsection (b) of this section which extend beyond this 500-foot buffer. In areas where the resource management area buffers a stream, shown as a blue line on the Chesapeake Bay Preservation Areas Map, or a water body contiguous to such stream and where the site-specific evaluation has yet to be done, the City Council may amend the Chesapeake Bay Preservation Areas Map to include any area within a 600-foot buffer outward from the center of such stream or water body as a resource management area.

(Code 2004, § 50-322; Code 2015, § 14-232; Ord. No. 2014-116-89, § 2, 5-27-2014; Ord. No. 2018-025, § 1, 2-26-2018)

Sec. 14-233. Intensely developed areas.

(a) The City may designate intensely developed areas as an overlay of Chesapeake Bay Preservation Areas within its jurisdiction. For the purposes of this article, intensely developed areas shall serve as redevelopment areas in which development is concentrated as of November 11, 1991. Areas so designated shall comply with the performance criteria for redevelopment in Division 4 (Section 14-262 et seq.) of this article.

(b) The City shall examine the pattern of residential, commercial, industrial and institutional development within Chesapeake Bay Preservation Areas and areas of existing development and infill sites where little of the natural environment remains may be designated as intensely developed areas, provided at least one of the following conditions existed at the time the City's program was originally adopted:

(1) Development has severely altered the natural state of the area such that it has more than 50 percent impervious surface.

(2) Public sewer and water systems, or a constructed stormwater drainage system, or both, have been constructed and served the area by November 11, 1991. This condition does not include areas planned for public sewer and water or constructed stormwater drainage systems.

(3) Housing density is equal to or greater than four dwelling units per acre.

(Code 2004, § 50-323; Code 2015, § 14-233; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-234. Site-specific refinement of Chesapeake Bay Preservation Area boundaries.

(a) The City shall, on all properties located within a designated Chesapeake Bay Preservation Area, as part of the Chesapeake Bay Site Plan review process pursuant to Section 14-263(10) or during the review of a water quality impact assessment pursuant to Section 14-264(6), ensure or confirm that:

(1) A reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to the development site have perennial flow; and

(2) Chesapeake Bay Preservation Area boundaries are to be adjusted, as necessary, on the site, based on this evaluation of the site.

(b) Where no existing evaluation has been confirmed, the City shall ensure that a reliable, site-specific evaluation is conducted by either conducting the site evaluation or requiring the person applying to use or develop the site to conduct the evaluation and submit the resulting findings for review. When required by the City, site-specific evaluations shall be performed using one of the protocols acceptable to the Virginia Department of Environmental Quality, which include the North Carolina and Fairfax County field indicator protocols referred to in the document adopted by the Commonwealth of Virginia entitled "Determinations of Water Bodies with Perennial Flow, Guidance on the Chesapeake Bay Preservation Area Designation and Management Regulations" and any other protocol either set forth in written guidance issued by the Virginia Department of Environmental Quality or for which the Administrator has received written confirmation from an authorized representative of the Virginia Department of Environmental Quality that such protocol is acceptable to the Virginia Department of Environmental Quality. Each site-specific evaluation must be performed, and certified as complete and accurate, by a qualified professional. To be qualified, a professional must (i) work or be certified in a related field such as stream ecology, hydrology, or hydrogeology, (ii) have secondary education, post-secondary education, or technical training in a related field such as stream ecology, hydrology, or hydrogeology, and (iii) have field experience performing or substantially assisting with the performance of a site-specific evaluation using the protocol employed. The City may, at its sole discretion, conduct a site-specific evaluation using a professional qualified pursuant to this section for any purpose.

(Code 2004, § 50-324; Code 2015, § 14-234; Ord. No. 2014-116-89, § 2, 5-27-2014; Ord. No. 2018-025, § 1, 2-26-2018)

Secs. 14-235—14-261. Reserved.

DIVISION 4. LAND USE AND DEVELOPMENT PERFORMANCE CRITERIA

Sec. 14-262. Purpose.

(a) The purpose of this division is to achieve the goals of the Act and Section 14-201 by establishing criteria to implement the following objectives: prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice, achieve a ten-percent reduction in nonpoint source pollution from development on previously developed land where the runoff was not treated by one or more water quality best management practices, and achieve a 40-percent reduction in nonpoint source pollution from agricultural and silvicultural uses.

(b) In order to achieve these goals and objectives, the criteria in this division establishes performance standards to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, maximize rainwater infiltration, and ensure the long-term performance of the measures employed.

(c) The criteria in this division became mandatory on January 1, 2005. They are supplemental to the various planning and zoning concepts employed by the City in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas.

(d) The City has incorporated the criteria in this division into its comprehensive plan and subdivision ordinance and may incorporate the criteria in this division into such other ordinances and regulations as may be appropriate, in accordance with Code of Virginia, § 62.1-44.15:74 and Title 9, Agency 25, Chapter 830, Parts V (9VAC25-830-160 et seq.), VI (9VAC25-830-180 et seq.), and VII (9VAC25-830-200 et seq.) of the Virginia Administrative Code. The criteria may be employed in conjunction with other planning and zoning concepts to protect the quality of State waters.

(Code 2004, § 50-330; Code 2015, § 14-262; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-263. General performance criteria.

Through its applicable land use ordinances, regulations and enforcement mechanisms, the City shall require that any use, development or redevelopment of land in Chesapeake Bay Preservation Areas meet the following performance criteria:

(1) No more land shall be disturbed than is necessary to provide for the proposed use or development.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use or development proposed. Indigenous vegetation may be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution.

(3) Where the best management practices are utilized that require regular or periodic maintenance to continue their functions, such maintenance shall be ensured through a maintenance agreement with the owner or developer or some other mechanism approved by the City that achieves an equivalent objective. Maintenance agreements submitted for best management practices installed or used in areas of the City served by the municipal separate storm sewer system pursuant to Section 14-331 will be accepted if consistent with the requirements above.

(4) All development exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development review process consistent with Code of Virginia, § 15.2-2286(A)(8) and subdivision (1)(e) of 9VAC25-830-240 of the Virginia Administrative Code.

(5) Land development shall minimize impervious cover consistent with the proposed use or development.

(6) Any land-disturbing activity that exceeds an area of 2,500 square feet (including construction of all single-family houses, septic tanks and drain fields, but otherwise as defined in Code of Virginia, § 62.1-44.15:51) shall comply with the requirements of Article III of this chapter.

(7) Where applicable, stormwater management criteria consistent with the water quality protection provisions of the Virginia Stormwater Management Program Regulations shall be satisfied.

a. Subject to the foregoing, the following stormwater management options shall be considered to comply with this subsection:

1. Incorporation on the site of best management practices that meet the water quality protection requirements set forth in this subsection. For the purposes of this subsection, the site may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single best management practice will be utilized by those projects to satisfy water quality protection requirements;

2. Compliance with a locally adopted Regional Stormwater Management Program, which may include a Virginia Pollution Discharge Elimination System (VPDES) permit issued by the Commonwealth of Virginia to the City for its municipally-owned separate storm sewer system discharges, that is reviewed and found by the Commonwealth to achieve water quality protection equivalent to that required by this subsection; and

3. Compliance with a site-specific VPDES permit issued by the Commonwealth of Virginia, provided that the City specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.

b. Any maintenance, alteration, use or improvement to an existing structure that does not degrade the quality of surface water discharge, as determined by the City, may be exempted from the requirements of this subsection.

c. Stormwater management criteria for redevelopment shall apply to any redevelopment, whether or not it is located within an intensely developed area designated by the City.

(8) Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from this article, provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia Technical Guide." The Virginia Department of Forestry will oversee and document

installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

(9) The City shall require evidence of all wetlands permits and delineation approvals required by law prior to authorizing grading or other on-site activities to begin.

(10) A Chesapeake Bay Site Plan shall be required for any land disturbance, development or redevelopment within a designated Chesapeake Bay Preservation Area. No Richmond Stormwater Management Program Permit, building permit, or land-disturbing permit issued pursuant to Article III of this chapter shall be issued for any activity until the City has approved a Chesapeake Bay Site Plan in accordance with the requirements of this section and Section 14-264.

(11) On-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System permit shall, for new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the State Water Control Board. All sewage disposal site records shall be administered to provide adequate notice and enforcement.

(12) On-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System permit shall be pumped and maintained at least once every five years. Such pumping and maintenance shall be performed in a manner approved by the District Health Department. Immediately upon having the sewage treatment system pumped and maintained, the owner of a sewage treatment system shall certify on a form approved by the District Health Department or an on-site service professional that such pumping and maintenance was performed. The pumping and maintenance required by this section shall be performed only by an individual or entity approved by the District Health Director or licensed by the Virginia Department of Professional and Occupational Regulation. However, in lieu of the mandatory pump-out, the District Health Department shall, consistent with 9VAC25-830-130(7)(a), allow (i) installation and maintenance of a plastic filter in the sewage treatment system tank outflow pipe or (ii) documentation every five years, certified by an operator or on-site soil evaluator licensed or certified under Code of Virginia, Title 54.1, Ch. 23 (Code of Virginia, § 54.1-2300 et seq.) as being qualified to operate, maintain, or design on-site sewage systems, demonstrating that the sewage treatment system has been inspected and maintained, that the sewage treatment system is functioning properly, and that the tank does not require pumping.

(Code 2004, § 50-331; Code 2015, § 14-263; Ord. No. 2014-116-89, § 2, 5-27-2014; Ord. No. 2018-025, § 1, 2-26-2018)

Sec. 14-264. Development criteria for resource protection areas.

In addition to the general performance criteria set forth in Section 14-263, the criteria in this section are applicable in resource protection areas.

(1) *Approval required.*

a. Land development may be allowed in the resource protection area, subject to approval by the City, only if it:

1. Is water-dependent;

2. Constitutes redevelopment;

3. Constitutes development or redevelopment within a designated intensely developed area;

4. Is a new use established pursuant to subsection (1)e.1 of this section;

5. Is a road or driveway crossing satisfying the conditions set forth in subsection (1)e.4 of this section; or

6. Is a flood control or stormwater management facility satisfying the conditions set forth in

subsection (5) of this section.

b. A water quality impact assessment in accordance with subsection (6) of this section shall be required for any proposed land disturbance.

c. A new or expanded water-dependent facility may be allowed, provided that the following criteria are met:

1. It does not conflict with the comprehensive plan;

2. It complies with the performance criteria set forth in Section 14-263;

3. Any nonwatery-dependent component is located outside of resource protection areas; and

4. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

d. Redevelopment, outside designated intensely developed areas, shall be permitted in the resource protection area only if there is no increase in the amount of impervious cover and no further encroachment within the resource protection area, and it shall conform to applicable erosion and sediment control and stormwater management criteria set forth in subsections (6) and (7) of this section, respectively, of Section 14-263, as well as all applicable stormwater management requirements of other State and Federal agencies.

e. Roads and driveways not exempt under Section 14-292(b)(1) and which, therefore, must comply with the provisions of this article, may be constructed in or across resource protection areas if each of the following conditions is met:

1. The City makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the resource protection area;

2. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize:

(i) Encroachment in the resource protection area; and

(ii) Adverse effects on water quality;

3. The design and construction of the road or driveway satisfy all applicable criteria of this article, including submission of a water quality impact assessment; and

4. The City reviews the plan for the road or driveway proposed in or across the resource protection area in coordination with the City's site plan, subdivision and plan of development approvals.

f. Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in resource protection areas, provided that:

1. The City has conclusively established that location of the facility within the resource protection area is the optimum location;

2. The size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both;

3. The facility must be consistent with a comprehensive stormwater management plan developed and that has been approved in accordance with 9VAC25-870-92 of the Virginia Stormwater Management Program regulations;

4. All applicable permits for construction in State or Federal waters must be obtained from the appropriate State and Federal agencies, such as the United States Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission;

5. Approval must be received from the City prior to construction; and

6. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.

It is not the intent of this subsection to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a resource protection area.

(2) *Exemptions in resource protection areas.*

a. The following land disturbances in resource protection areas may be exempt from the criteria of this division provided that they comply with subsections (2)b and (2)c of this section:

1. Water wells;

2. Passive recreation facilities, such as boardwalks, trails and pathways; and

3. Historic preservation and archaeological activities.

b. The City shall establish administrative procedures to review such exemptions.

c. Any land disturbance exceeding an area of 2,500 square feet shall comply with the erosion and sediment control criteria in Section 14-263(6).

(3) *Buffer area requirements.* The 100-foot-wide buffer area shall be the landward component of the resource protection area as set forth in Section 14-231(b)(5). Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this section, the 100-foot-wide buffer area is not reduced in width. To minimize the adverse effects of human activities on the other components of the resource protection area, State waters, and aquatic life, a 100-foot-wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

a. The 100-foot-wide buffer area shall be deemed to achieve a 75-percent reduction of sediments and a 40-percent reduction of nutrients.

b. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot-wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this article.

(4) *Permitted encroachments into the buffer area.*

a. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed through an administrative process, in accordance with the following criteria:

1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.

2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel.

3. The encroachment may not extend into the seaward 50 feet of the buffer area.

b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989, and March 1, 2002, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:

1. The lot or parcel was created as a result of a legal process conducted in conformity with the City's subdivision regulations;

2. Conditions or mitigation measures imposed through a previously approved exception shall be met;

3. If the use of a best management practice was previously required, the best management practice shall be evaluated to determine if it continues to function effectively and, if necessary,

the best management practice shall be reestablished or repaired and maintained as required; and

4. The criteria in subsection (4)a of this section shall be met.

(5) *Permitted modifications of the buffer area.* In order to maintain the functional value of the buffer area, existing vegetation may be removed, subject to approval by the City, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff as specified in the Riparian Buffer Modification & Mitigation Guidance Manual, 2003, published by the Chesapeake Bay Local Assistance Division of the Department of Conservation and Recreation and as may be amended by the State from time to time.

b. Any path shall be constructed and surfaced so as to effectively control erosion.

c. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practices.

d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(6) *Water quality impact assessment.* A water quality impact assessment shall be required for any proposed development within the resource protection area consistent with this division and for any other development in Chesapeake Bay Preservation Areas that the Administrator determines may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development.

a. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands in the resource protection areas consistent with the goals and objectives of the Act, this article, and the City's programs, and to determine specific measures for mitigation of those impacts. An approved water quality impact assessment shall demonstrate the following:

1. The absence of significant adverse impacts of nonpoint source pollution on topography, soils, environmentally sensitive areas, hydrology, and the quality of State waters; or

2. That any such adverse impacts are mitigated. Calculations shall be performed in accordance with guidelines developed by the City pursuant to Section 14-263 or in accordance with generally accepted engineering methods approved by the City.

b. The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with the criteria of the City's program.

(7) *Buffer area requirements for intensely developed areas.* In intensely developed areas, the City may exercise discretion regarding whether to require establishment of vegetation in the 100-foot-wide buffer area. However, while the immediate establishment of vegetation in the buffer area may be impractical, the City shall give consideration to implementing measures that would establish vegetation in the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation. Where buffers are to be established, they shall be designed in accordance with the standards established in the Riparian Buffer Modification & Mitigation Guidance Manual, 2003, prepared by the Chesapeake Bay Local Assistance Division of the Department of Conservation and Recreation and as may be amended by the Commonwealth of Virginia from time to time.

(Code 2004, § 50-332; Code 2015, § 14-264; Ord. No. 2014-116-89, § 2, 5-27-2014)

Secs. 14-265—14-291. Reserved.

DIVISION 5. ADMINISTRATION AND ENFORCEMENT

Sec. 14-292. Nonconformities, exemptions, and exceptions.

(a) *Nonconforming uses and noncomplying structures.*

(1) The City may permit the continued use, but not necessarily the expansion, of any structure in existence on November 11, 1991, or which exists at the time of any amendment to this article. The City shall use the administrative review procedure to waive or modify the criteria of this article for structures on legal nonconforming lots or parcels, provided that there will be no net increase in nonpoint source pollutant load. Any development or land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of this article.

(2) A nonconforming use and development waiver shall become null and void 12 months from the date of issuance if the Administrator documents that no substantial work has commenced. The Administrator shall notify the permittee of the revocation of the waiver.

(3) This article shall not be interpreted or construed to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by other City ordinances.

(b) *Public utilities, railroads, public roads, and facilities exemptions.*

(1) a. Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with:

1. Regulations promulgated pursuant to the Erosion and Sediment Control Law (Code of Virginia, § 62.1-44.15:51 et seq.) and the Stormwater Management Act (Code of Virginia, § 62.1-44.15:24 et seq.);

2. An erosion and sediment control plan and a stormwater management plan approved by the City or State, where required; or

3. Local water quality protection criteria at least as stringent as the above State requirements;

will be deemed to constitute compliance with this article.

b. The exemption of public roads is further conditioned on the following:

1. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize:

(i) Encroachment in the resource protection area; and

(ii) Adverse effects on water quality; and

2. Public roads, as defined in Section 14-181, that are found to be in compliance with this division are deemed to be exempt.

(2) Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both, by the City or regional service authority shall be exempt from the criteria in this division, provided that:

a. To the degree possible, the location of such utilities and facilities should be outside resource protection areas;

b. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

c. All such construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable State and Federal permits and designed and conducted in a manner that protects water quality; and

d. Any land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment

control requirements of this part.

(c) *Exceptions.*

(1) Exceptions to the requirements of Sections 14-263 and 14-264 may be granted, provided that a finding is made that:

a. The requested exception to the criteria is the minimum necessary to afford relief;

b. Granting the exception will not confer upon the applicant any special privileges that are denied by this division to other property owners who are subject to its provisions and who are similarly situated;

c. The exception is in harmony with the purpose and intent of this division and is not of substantial detriment to water quality;

d. The exception request is not based upon conditions or circumstances that are self-created or self-imposed;

e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and

f. Other findings, as appropriate and required by the City, are met.

(2) The Administrator may approve, deny or approve with conditions individual exception requests to Section 14-263, provided that the applicant meets the criteria of subsection (c)(1) of this section.

(3) The process to be used for exceptions to Section 14-264 shall include, but not be limited to, the following provisions:

a. An exception may be considered and acted upon only by the Planning Commission.

b. No exception shall be authorized except after notice and a hearing, as required by Code of Virginia, § 15.2-2204, except that only one hearing shall be required. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the notice may be given by first class mail rather than by registered or certified mail.

(4) Exceptions to other provisions of this section may be granted, provided that:

a. Exceptions to the criteria shall be the minimum necessary to afford relief; and

b. Reasonable and appropriate conditions upon any exception granted shall be imposed, as necessary, so that the purpose and intent of the Act is preserved.

(5) Notwithstanding the provisions of subsection (c)(3) of this section, additions and modifications to existing legal principal structures may be processed through the administrative review process specified in subsection (c)(2) of this section, as allowed by subsection (a) of this section, subject to the findings required by subsection (c)(1) of this section but without a requirement for a public hearing. This provision shall not apply to accessory structures.

(Code 2004, § 50-340; Code 2015, § 14-292; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-293. Procedures.

Procedures for the processing and review of Chesapeake Bay Site Plans and the administrative review process, required by this article, shall be established by the Director. Such procedures shall be in written form and made available to all applicants.

(Code 2004, § 50-341; Code 2015, § 14-293; Ord. No. 2004-331-321, § 1, 12-13-2004)

Sec. 14-294. Appeals of Administrator's decisions.

(a) *Right of appeal.* Any applicant who is aggrieved by any action of the City in disapproving a request for use or development within a Chesapeake Bay Preservation Area as described on the submitted Chesapeake Bay Site Plan shall have the right to file an appeal of such action with the Director. Such appeal must be filed within 30 days

from the date of the action appealed and must be accompanied by a fee of $50.00 to be paid into the City treasury.

(b) *Scheduling of hearing.* Within 15 days of the date on which the applicant files the appeal in the Office of the Director, the Director shall schedule a hearing thereon at which both the applicant and the City representative may be heard. Such hearing shall be scheduled no sooner than 30 days after the Director furnishes the applicant and the City representative with written notice of the date, time and location of the hearing.

(c) *Review and decision.* The Director shall review the evidence and arguments by both the applicant and the City representative. Such evidence and arguments may be submitted in writing prior to the hearing or presented during the hearing. No later than 15 days after the hearing described in subsection (b) of this section, the Director shall issue to the applicant and the Administrator a written decision affirming, reversing or modifying the action of the Administrator.

(d) *Judicial review.* The decision of the Director shall be final, unless the applicant appeals such decision to the Circuit Court of the City of Richmond within 30 days of the date on which the Director issues such decision.

(e) *Administrative procedures.* The Director shall develop procedures not inconsistent with this section for the administration of the appeals process set forth in this section.

(Code 2004, § 50-342; Code 2015, § 14-294; Ord. No. 2014-116-89, § 2, 5-27-2014)

Sec. 14-295. Enforcement.

(a) In order to ensure compliance with this article, the City may elect to pursue any and all enforcement actions in accordance with this article, with Article III and Article V of this chapter, and with Chapters 5, 25, and 30.

(b) Without limiting the remedies available under this article, any person who violates any provision of this article or who violates or fails, neglects, or refuses to obey any variance or permit condition authorized under this article shall, upon such a finding thereof by the Circuit Court of the City of Richmond, be assessed a civil penalty not to exceed $5,000.00 for each day of violation. Such penalties may, at the discretion of the court, be directed to be paid into the treasury of the City for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the City, in such a manner as the court may direct by order, except that, in the event the City or its agent is the violator, the court shall direct the civil penalty to be paid into the treasury of the Commonwealth as provided in Code of Virginia, § 62.1-44.15:74(E).

(c) Without limiting the remedies available under this article, and with the consent of any person who has violated any provision of this article, or who has violated or failed, neglected, or refused to obey any variance or permit condition authorized under this article, the Director may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed $10,000.00 for each violation. Such civil charges shall be paid into the treasury of the City for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the City, except that in the event the City or its agent is the violator, the civil charges shall be paid into the treasury of the Commonwealth as provided in Code of Virginia, § 62.1-44.15:74(E). All civil charges shall be in lieu of any civil penalty that could be imposed under subsection (a) of this section. Civil charges shall be in addition to the cost of any restoration required by the Director.

(Code 2015, § 14-295; Ord. No. 2018-025, § 2, 2-26-2018)

Secs. 14-296—14-321. Reserved.

ARTICLE V. RICHMOND STORMWATER MANAGEMENT PROGRAM*

***State law reference—**Stormwater Management Act, Code of Virginia, § 62.1-44.15:24 et seq.

Sec. 14-322. Title, purpose, and authority.

This article shall be known as the "Richmond Stormwater Management Program Ordinance." The purpose of this article is to integrate the City's stormwater management, floodplain management, erosion and sediment control, and Chesapeake Bay Preservation Area requirements into a unified City program intended to administer, implement and enforce the Virginia Stormwater Management Act. This article provides the procedures for the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities with the goals of improving water quality, encouraging innovative solutions to stormwater management, and

reducing flooding and erosion. This article is authorized by Code of Virginia, Title 62.1, Ch. 3.1 (Code of Virginia, § 62.1-44.15:24 et seq.).

(Code 2004, § 50-401; Code 2015, § 14-322; Ord. No. 2014-116-89, § 3, 5-27-2014; Ord. No. 2015-49-59, § 1, 3-23-2015)

Sec. 14-323. Definitions.

The following words and terms used in this article have the following meanings, unless the context clearly indicates otherwise. In addition, some terms not defined herein are defined at 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, and are incorporated herein by reference.

Administrator means the Director of Public Utilities or his or her designee.

Agreement in lieu of a stormwater management plan means an executed agreement in lieu of a stormwater management plan, which shall be a contract between the City and a Richmond Stormwater Management Program Permit applicant, that is on a form approved by the Administrator, and that specifies methods that the applicant shall implement to comply with the Richmond Stormwater Management Program requirements for the construction of a detached, separately constructed, single-family residence.

Applicant means any person submitting an application for a permit under this article.

Best management practice means schedules of activities, prohibitions of practices (including both structural and nonstructural practices), maintenance procedures, and other management practices to prevent or reduce the pollution of surface water and groundwater systems from the impacts of land-disturbing activities.

Chesapeake Bay Preservation Act land-disturbing activity means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in areas of the City designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, Code of Virginia, § 62.1-44.15:67 et seq.

Clean Water Act means the Federal Clean Water Act (33 USC 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Common plan of development or sale means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

Control measure means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to State waters.

Department of Environmental Quality means the Virginia Department of Environmental Quality.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities, or structures, or the clearing of land for non-agricultural or non-silvicultural purposes.

General permit means the State permit titled General Permit for Discharges of Stormwater from Construction Activities found at 9VAC25-880-1 et seq.

Land disturbance or *land-disturbing activity* means, for the purpose of this article, a manmade change to the land surface that potentially changes its runoff characteristics, including clearing, grading, or excavation, except that the term shall not include the exemptions included in Section 14-324.

Layout means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

Minor modification means an amendment to an existing permit before its expiration, not requiring extensive review and evaluation and including, but not limited to, changes in test protocols promulgated by the U.S. Environmental Protection Agency, increased monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of an operation, or reduce the capacity of a facility to protect human health or the environment.

Operator means the owner or operator of any facility or activity subject to regulation pursuant to this article.

Permit or *Richmond Stormwater Management Program Permit* means an approval to conduct a land-disturbing activity, issued by the Administrator after the Administrator has confirmed, if applicable, general permit coverage with the Department of Environmental Quality.

Permittee means the person to whom a Richmond Stormwater Management Program Permit is issued.

Person means any individual, corporation, partnership, association, state, municipality, commission, political subdivision of a state, governmental body (including Federal, State, or local entity, as applicable), interstate body, or any other legal entity.

Regulations means the Virginia Stormwater Management Program Permit Regulations, 9VAC25-870-10 et seq., as amended.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

State means the Commonwealth of Virginia.

State permit means an approval to conduct a land-disturbing activity issued by the State Water Control Board in the form of a State stormwater individual permit or coverage issued under a State general permit, or an approval issued by the State Water Control Board for stormwater discharges from a municipal separate storm sewer system. The State imposes and enforces requirements pursuant to the Clean Water Act and regulations, the Virginia Stormwater Management Act, and the Regulations through the use of State permits.

State Water Control Board means the Virginia State Water Control Board.

State Water Control Law means Code of Virginia, Title 62.1, Ch. 3.1 (Code of Virginia, § 62.1-44.2 et seq.).

State waters means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth, or within its jurisdiction, including wetlands.

Stormwater means precipitation that is discharged across the land surface or through conveyances to one or more waterways and may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management plan means a document containing material that describes methods for complying with the requirements of this article.

Stormwater pollution prevention plan means a document that is prepared in accordance with good engineering practices, that identifies potential sources of pollutants that reasonably may be expected to adversely affect the quality of stormwater discharges from a construction site, and that otherwise meets the requirements of this chapter. In addition, a stormwater pollution prevention plan shall identify and require the implementation of control measures, and shall include, but not be limited to, the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Subdivision means a division, subdivision, or resubdivision of a lot, tract, or parcel of land situated wholly or partly within the corporate City limits into three or more lots, tracts, or parcels of land for the purpose, whether immediate or in the future, of transferring ownership of any one or more of such lots, tracts, or parcels of land or for the purpose of the erection of buildings or other structures on any one or more of such lots, tracts, or parcels of land. The term "subdivision" shall not include a division of land for agricultural purposes in parcels of one acre or more, the average width of which is not less than 150 feet, when such division:

(1) Does not require the opening of any new street or the use of any new public easement of access;

(2) Does not obstruct, and is not likely to obstruct, natural drainage;

(3) Does not adversely affect, and is not likely to adversely affect, the establishment of any expressway, major street, primary highway, or toll road; and

(4) Does not adversely affect the execution or development of any plat or subdivision approved by the City Planning Commission or otherwise adversely affect the orderly subdivision of contiguous property.

Total maximum daily load (TMDL) means the sum of the individual wasteload allocations for point sources,

load allocations for nonpoint sources, natural background loading and a margin of safety. Total maximum daily loads can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The total maximum daily load process provides for point versus nonpoint source trade-offs.

Virginia Stormwater Best Management Practice Clearinghouse Website means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act (Code of Virginia, § 62.1-44.15:24 et seq.) and associated regulations.

Virginia Stormwater Management Act or *Act* means Code of Virginia, Title 62, Ch. 3.1, Art. 23 (Code of Virginia, § 62.1-44.15:24 et seq.).

Virginia Stormwater Management Program means a program approved by the State Water Control Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities, and shall include local ordinances, rules and regulations, permit requirements, standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement, where authorized by the Act, and evaluation consistent with the requirements of the Act and associated regulations.

Virginia Stormwater Management Program Authority means an authority approved by the State Water Control Board after September 13, 2011, to operate a Virginia Stormwater Management Program. For purposes of this article, the City is the Virginia Stormwater Management Program Authority.

(Code 2004, § 50-402; Code 2015, § 14-323; Ord. No. 2014-116-89, § 3, 5-27-2014)

Cross reference—Definitions generally, § 1-2.

Sec. 14-324. Permit requirement; exemptions.

(a) Except as provided herein, no person may engage in any land-disturbing activity in the City until the Administrator has issued a Richmond Stormwater Management Program Permit in accordance with this article.

(b) A Chesapeake Bay Preservation Act land-disturbing activity does not require completion of a registration statement or require coverage under the general permit, but shall be subject to the following technical criteria and program and administrative requirements: an erosion and sediment control plan consistent with the requirements of Article III of this chapter; a stormwater management plan consistent with the requirements of Section 14-327; exceptions which may be requested pursuant to 9VAC25-870-57; the technical and administrative requirements of Section 14-330; the long-term maintenance requirements for permanent stormwater facilities in Section 14-331, and the requirements for channel protection and flood protection, the availability of off-site compliance options, and requirements for design storm and hydrologic methods, linear development controls, and criteria associated with stormwater impoundment structures or facilities found at 9VAC25-870-51.

(c) The following exemptions apply to the Richmond Stormwater Management Program Permit requirements set forth in subsection (a) of this section:

(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions Code of Virginia, Title 45.1 (Code of Virginia, § 45.1-161.1 et seq.);

(2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth in State regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops, unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia, Title 10.1, Ch. 11 (Code of Virginia, § 10.1-1100 et seq.), or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, § 10.1-1163(B);

(3) Single-family residences separately built, and additions or modifications to such existing single-family residential structures, disturbing less than one acre, or less than 2,500 square feet if located in an area delineated by the City as a Chesapeake Bay Preservation Area pursuant to Article IV of this chapter, and

not part of a larger common plan of development or sale;

(4) Land-disturbing activities that disturb less than one acre, or less than 2,500 square feet if located in an area delineated by the City as a Chesapeake Bay Preservation Area pursuant to Article IV of this chapter, and not part of a larger common plan of development or sale;

(5) Discharges to a sanitary sewer or a combined sewer system;

(6) Activities under a State or Federal reclamation program to return an abandoned property to agricultural or open land use;

(7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and

(8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days following commencement of the land-disturbing activity. Compliance with the administrative requirements of this chapter is required within 30 days of commencing the land-disturbing activity.

(Code 2004, § 50-403; Code 2015, § 14-324; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-325. Plan submission and approval; prohibitions.

Pursuant to Code of Virginia, § 62.1-44.15:27, the City hereby establishes a Richmond Stormwater Management Program for land-disturbing activities and adopts the applicable standards and specifications for Virginia Stormwater Management Programs promulgated by the State Water Control Board for the purposes set out in Section 14-322. The Director of Public Utilities is hereby designated as the Administrator of the Richmond Stormwater Management Program.

(1) Any person who plans to conduct a land-disturbing activity in the City shall first submit the following to the Administrator:

a. An application for a permit on the most current City-approved form, including a general permit registration if required;

b. An erosion and sediment control plan to be reviewed for approval in accordance with Article III of this chapter with certification by the applicant that the plan will be followed;

c. A stormwater management plan that meets the requirements of Section 14-327, or, if authorized by State law, an agreement in lieu of a stormwater management plan; and

d. All applicable fees and a performance bond as required by Sections 14-336 and 14-337.

(2) a. No person shall begin to conduct any land-disturbing activity in the City until the City has received all of the items listed in subsection (1) of this section and has issued a Richmond Stormwater Management Program Permit to the applicant. Additionally, no person shall begin to conduct any land-disturbing activity in the City without first having obtained a General Virginia Pollution Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities as set forth in 9VAC25-880-70, as amended from time to time, for the proposed activity. The Administrator shall not issue a Richmond Stormwater Management Program Permit until after the Administrator has received evidence of such general permit authority from the Virginia Department of Environmental Quality. All land clearing, construction, disturbance, land development and drainage must be performed in accordance with the terms of the Richmond Stormwater Management Program Permit. Failure to comply may result in enforcement by the City pursuant to Section 14-335.

b. Every permit applicant shall furnish, when requested by the Administrator, such application materials, plans, specifications, and other pertinent information as the Administrator may determine necessary to determine the effect of the discharge from the land-disturbing activity on the quality of State waters, or such other information as the Administrator may determine necessary to

accomplish the purposes of this chapter.

(3) Issuance of a Richmond Stormwater Management Program Permit does not relieve the applicant of having to obtain any other permits, including any City-issued permits that are required prior to beginning a land-disturbing activity. The City will not issue any other grading, building, or other local permit until the Administrator has approved a Richmond Stormwater Management Program Permit for the property.

(Code 2004, § 50-404; Code 2015, § 14-325; Ord. No. 2014-116-89, § 3, 5-27-2014; Ord. No. 2015-49-59, § 1, 3-23-2015)

Sec. 14-326. Stormwater pollution prevention plan; contents of plans.

(a) The operator shall maintain a stormwater pollution prevention plan throughout the period of permit coverage that is consistent with the requirements of 9VAC25-870-54 and 9VAC25-880-70. The stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan (as approved by the City, or by the State pursuant to the general permit issued July 1, 2009) or an agreement in lieu of a stormwater management plan as provided in Section 14-325, a pollution prevention plan, and a description of any additional control measures necessary to address a total maximum daily load if a specific wasteload allocation for a pollutant has been established in a total maximum daily load and is assigned to stormwater discharges from construction. In addition, the stormwater pollution prevention plan shall include any information required by Section II (stormwater pollution prevention plan) of the general permit.

(b) The stormwater pollution prevention plan shall meet the following requirements:

(1) Control stormwater volume and velocity within the site to minimize soil erosion;

(2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

(3) Minimize the amount of soil exposed during construction;

(4) Minimize the disturbance of steep slopes;

(5) Minimize sediment discharges from the site. The design, installation, and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;

(7) Minimize soil compaction and, unless infeasible, preserve topsoil;

(8) Immediately initiate stabilization of disturbed areas, at a minimum, whenever any clearing, grading, excavating, or other earth disturbing activities have ceased permanently on any portion of the site, or have ceased temporarily on any portion of the site and will not resume for a period exceeding 14 calendar days. The stormwater pollution prevention plan shall require that stabilization be completed within a period of time determined by the City. In arid, semi-arid, and drought-stricken areas where immediately initiating vegetative stabilization measures is infeasible, the stormwater pollution prevention plan shall require that alternative stabilization measures be employed as specified by the City; and

(9) Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

(c) The permittee shall maintain the stormwater pollution prevention plan at a central location on the site of the land-disturbing activity for as long as land-disturbing activities are occurring on the site. If an on-site location is unavailable, the operator shall post notice of the stormwater pollution prevention plan's location near the main entrance to the site. The permittee shall make the stormwater pollution prevention plan available for public review in accordance with the terms of the general permit, either electronically or in hard copy.

(d) The permittee's stormwater pollution prevention plan shall be written in compliance with the Regulations, the terms of the general permit, and this article. The permittee shall amend the stormwater pollution prevention plan in a timely fashion to incorporate any change in design, construction, operation, or maintenance

that has a significant effect on the discharge of pollutants to State waters.

(Code 2004, § 50-405; Code 2015, § 14-326; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-327. Stormwater management plan; contents of plans.

(a) The permittee's stormwater management plan, referenced at Section 14-325, shall be written in compliance with the stormwater management technical criteria set forth in Section 14-330 for the entire common plan of development or sale, where applicable, and shall consider all sources of surface and subsurface runoff and groundwater flows converted to surface flows. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.

(b) The permittee shall include the following items in the stormwater management plan:

(1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged, including surface waters or karst features, if present, and the pre-development and post-development drainage areas;

(2) Contact information, including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;

(3) A narrative that includes a description of current (pre-land disturbance) site conditions and final (post-land disturbance) site conditions;

(4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

(5) Information on the proposed stormwater management facilities, including:

a. The types of facilities;

b. The location of the facilities, including geographic coordinates;

c. The acreage treated; and

d. The surface water or karst features, if present, into which the facilities will discharge;

(6) Hydrologic and hydraulic computations, including runoff characteristics;

(7) Documentation and calculations verifying compliance with the water quality and water quantity requirements of Section 14-330;

(8) A map or maps of the site that depicts the site topography and includes:

a. All existing contributing drainage areas;

b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

d. Current land use, including existing structures, roads, and locations of known utilities and easements;

e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

f. The limits of clearing and grading, and the proposed drainage patterns on the site;

g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including, but not limited to, planned locations of utilities, roads, and easements.

(c) If a permittee or operator intends to meet the water quality and quantity requirements set forth in this article through the use of off-site compliance options, where applicable and available, then a letter of availability from the off-site provider must be included in the stormwater management plan. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of land-disturbing activities except as allowed

by State law.

(d) Elements of the stormwater management plan that include activities regulated under Code of Virginia, Title 54.1, Ch. 4 (Code of Virginia, § 54.1-400 et seq.) shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Code of Virginia, Title 54.1, Ch. 4, Art. 1 (Code of Virginia, § 54.1-400 et seq.).

(e) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

(Code 2004, § 50-406; Code 2015, § 14-327; Ord. No. 2014-116-89, § 3, 5-27-2014; Ord. No. 2015-49-59, § 1, 3-23-2015)

Sec. 14-328. Pollution prevention plan; contents of plans.

(a) The permittee shall develop, implement and update, as necessary, a pollution prevention plan detailing the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, these measures shall be designed, installed, implemented, and maintained to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(b) The pollution prevention plan shall include effective BMPs to prohibit the following discharges:

(1) Wastewater from washout of concrete, unless managed by an appropriate control;

(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;

(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

(4) Soaps or solvents used in vehicle and equipment washing.

(c) The pollution prevention plan shall prohibit discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate controls.

(Code 2004, § 50-407; Code 2015, § 14-328; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-329. Review of stormwater management plan.

(a) The applicant shall submit the stormwater management plan referenced in Section 14-327 a minimum of 75 days prior to the anticipated commencement of a land-disturbing activity to allow for timely review by the Administrator. The following timeframes for review and approval or disapproval shall apply:

(1) The Administrator shall determine the completeness of the stormwater management plan in accordance with Section 14-327, and shall notify the applicant in writing of the determination within 15 calendar days of receipt. If deemed incomplete, the written notification shall explain the reasons the Administrator has deemed the plan incomplete. Where available to the applicant, electronic communication shall be considered communication in writing;

(2) The Administrator shall have an additional 60 calendar days from the date of communicating to the applicant that the plan is complete to review the stormwater management plan, except that if a determination of completeness is not made within the time prescribed in subsection (a)(1) of this section, then the stormwater management plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the stormwater management plan.

(b) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the applicant or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this article. If a plan meeting all requirements of this article is submitted and no action is taken within the timeframe above, the plan shall be deemed approved.

(c) If the stormwater management plan is disapproved, the Administrator shall review a revised plan within 45 calendar days of the resubmission.

(d) Once the Administrator has approved a plan, the permittee shall modify the plan only under the following terms:

(1) After review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.

(2) When required by the Administrator, and within a time prescribed by the Administrator, to address any deficiencies noted during inspection.

(e) The permittee shall submit a construction record drawing for permanent stormwater management facilities, unless waived by the Administrator pursuant to law.

(Code 2004, § 50-408; Code 2015, § 14-329; Ord. No. 2014-116-89, § 3, 5-27-2014; Ord. No. 2015-49-59, § 1, 3-23-2015)

Sec. 14-330. Technical criteria for land-disturbing activities.

(a) To protect the quality and quantity of State water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part IIB of the Regulations, as amended, expressly to include 9VAC25-870-62 (applicability); 9VAC25-870-63 (water quality design criteria requirements); 9VAC25-870-65 (water quality compliance); 9VAC25-870-66 (water quantity); 9VAC25-870-69 (off-site compliance options); 9VAC25-870-72 (design storms and hydrologic methods); 9VAC25-870-74 (stormwater harvesting); 9VAC25-870-76 (linear development project); 9VAC25-870-85 (stormwater management impoundment structures or facilities) and 9VAC25-870-92 (comprehensive stormwater management plans), which shall apply to all land-disturbing activities, including all Chesapeake Bay Preservation Act land-disturbing activities, regulated pursuant to this chapter, except as expressly set forth in subsection (b) of this section.

(b) Land-disturbing activities, including all Chesapeake Bay Preservation Act land-disturbing activities, that have obtained initial general permit coverage, or that commence land disturbance, prior to July 1, 2014, shall be conducted in accordance with the technical criteria for regulated land-disturbing activities set forth in Part IIC of the Regulations, as amended, expressly to include 9VAC25-870-93 (definitions); 9VAC25-870-94 (applicability); 9VAC25-870-95 (general); 9VAC25-870-96 (water quality); 9VAC25-870-97 (stream channel erosion); 9VAC25-870-98 (flooding); and 9VAC25-870-99 (regional (watershed-wide) stormwater management plans). Such projects shall remain subject to the Part IIC technical criteria for an additional two general permit cycles. After such time, portions of the project that come under construction shall become subject to any new technical criteria adopted by the Department of Environmental Quality.

(c) Land-disturbing activities that obtain general permit coverage on or after July 1, 2014, shall be conducted in accordance with the Part IIB technical criteria of the Regulations. Such projects shall remain subject to the Part IIB technical criteria for an additional two general permit cycles, except as provided for in subsection D of 9VAC25-870-48. After such time, portions of the project that come under construction shall become subject to any new technical criteria adopted by the Department of Environmental Quality.

(d) Any land-disturbing activity shall be considered grandfathered and shall be subject to the Part IIC technical criteria of the Regulations, provided that:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the City to be equivalent thereto:

a. Was approved by the City prior to July 1, 2012;

b. Provided a layout as defined in 9VAC25-870-10;

c. Will comply with the Part IIC technical criteria of the Regulations; and

d. Has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

(2) State permit coverage has not been obtained prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(e) Local, State, and Federal projects shall be considered grandfathered by the City and shall be subject to Part IIC technical criteria of the Regulations, provided that:

(1) There has been an obligation of local, State, or Federal funding, in whole or in part, prior to July 1, 2012, or the Department of Environmental Quality has approved a stormwater management plan prior to July 1, 2012;

(2) State permit coverage has not been obtained prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(f) Land-disturbing activities grandfathered under subsections (d) and (e) of this section shall remain subject to the Part IIC technical criteria of the Regulations for one additional State permit cycle. After such time, portions of the project coming under construction shall become subject to any new technical criteria adopted by the Department of Environmental Quality.

(g) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part IIC of the Regulations.

(h) Nothing in this section shall preclude an operator from constructing to a more stringent standard at the operator's discretion.

(i) (1) The Administrator may grant exceptions to the technical requirements of Part IIB or Part IIC of the Regulations, provided that:

a. The exception is the minimum necessary to afford relief;

b. Reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this article are preserved;

c. Granting the exception will not confer any special privileges that are denied in other similar circumstances; and

d. Exception requests are not based upon conditions or circumstances that are self-imposed or self-created.

(2) Economic hardship alone is not sufficient reason to grant an exception from the requirements of this section.

a. Exceptions to the requirement that the land-disturbing activity obtain a required permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, except where allowed under Part IIC of the Regulations, or otherwise by State law.

b. Exceptions to requirements for phosphorus reductions shall not be allowed unless off-site options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(Code 2004, § 50-409; Code 2015, § 14-330; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-331. Long-term maintenance of permanent stormwater facilities.

(a) All stormwater management facilities, including BMPs and other techniques specified to manage the quality and quantity of runoff, shall be maintained for their full lifespan. In order to ensure this result, the permittee shall sign and record in the local land records an instrument obligating the permittee to maintain all stormwater management facilities for their full lifespan. The instrument shall be on the most recent form approved by the Administrator. If the permittee will not be the owner of the stormwater management facilities once they are fully

constructed, the permittee shall obtain the document from the future owner. The Administrator shall not issue a final approval of a stormwater management plan until the recorded document is received and is deemed acceptable to the City. At a minimum, the instrument shall:

(1) Be submitted to the Administrator for review and approval during the review period for the stormwater management plan;

(2) Run with the land;

(3) Provide access to the property for maintenance and regulatory inspection purposes;

(4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and

(5) Be enforceable by all appropriate governmental parties.

(b) At the Administrator's discretion, such recorded instruments need not be provided for stormwater management facilities, including BMPs and other techniques specified to manage the quality and quantity of runoff, designed to treat stormwater runoff primarily from an individual residential lot, provided future maintenance of such facilities will be addressed through an enforceable mechanism acceptable to the Administrator. Facilities that are exempted from subsection (a) of this section pursuant to this subsection shall not be subject to the requirement for an inspection conducted by the Administrator.

(c) If a recorded instrument is not required pursuant to subsection (b) of this section, the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other methods targeted at promoting the long-term maintenance of such facilities. Facilities that are exempted pursuant to subsection (b) of this section must comply with any requirements as required by the Administrator as a part of this overall strategy.

(Code 2004, § 50-410; Code 2015, § 14-331; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-332. Monitoring and inspections.

(a) The Administrator is authorized to inspect any land-disturbing activity in the City for:

(1) Compliance with the approved erosion and sediment control plan;

(2) Compliance with the approved stormwater management plan or the agreement in lieu of a stormwater management plan;

(3) Development, updating, and implementation of a pollution prevention plan; and

(4) Development and implementation of any additional control measures necessary to address a TMDL.

The permittee or operator of a land-disturbing activity shall permit the Administrator to conduct such an inspection at reasonable times and under reasonable circumstances.

(b) The Administrator is authorized to enter any establishment or upon any property, public or private, in order to conduct surveys or investigations necessary to ensure that stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities, to enforce this article or, when permitted by appropriate legal arrangement, including, but not limited to, a performance bond with surety, cash escrow, or letter of credit, for the purpose of taking appropriate corrective actions required by permit when a permittee, after proper notice, has failed to take acceptable action within the time specified. The operator of any such property shall permit the Administrator to conduct such an inspection, survey or investigation at reasonable times and under reasonable circumstances. The terms of the legal documentation referenced above will govern the terms of the Administrator's actions with regard to taking corrective actions.

(c) The Administrator is authorized to require, and a permittee shall furnish, when requested, any application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of the discharge on the quality of State waters, or such other information as may be necessary to accomplish the purposes of this chapter.

(d) The Administrator is authorized to conduct post-construction inspections of stormwater management

facilities pursuant to the City's approved inspection program. The Administrator shall conduct an inspection of each facility, at a minimum, at least once every five years, except as may otherwise be provided for in Section 14-331.

(Code 2004, § 50-411; Code 2015, § 14-332; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-333. Hearings.

To the extent a hearing is required by law, hearings held under this section shall be conducted by the Administrator in accordance with such procedures established by the Administrator by regulation pursuant to Section 28-26, which shall include, at a minimum, an opportunity for the applicant or permittee to be heard on pertinent matters and based upon procedures required by Code of Virginia, §§ 62.1-44.15:44 and 62.1-44.15:45, as applicable.

(Code 2004, § 50-412; Code 2015, § 14-333; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-334. Appeals.

Any permit applicant, permittee or any other person subject to the requirements of this article, who is aggrieved by the issuance or non-issuance of a permit or an enforcement decision by the Administrator, may appeal the decision to the Richmond Circuit Court, if allowed by State law.

(Code 2004, § 50-413; Code 2015, § 14-334; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-335. Enforcement.

(a) If the Administrator determines that there is a failure to comply with the permit conditions, notice shall be served upon the permittee, operator or other person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application, or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. If the person served with such notice fails to comply or ensure that a responsible party complies within the time specified, the Administrator is authorized to issue a stop work order or to revoke the permit. The Administrator is also authorized to pursue additional enforcement measures listed below.

(2) If the Administrator issues a stop work order, the person to which such order has been issued shall cease or ensure that all land-disturbing activities cease until the Administrator confirms in writing that the permit violation has ceased, and/or that an approved plan and required permits have been obtained, or that specified corrective measures have been completed.

(3) Stop work orders shall be issued in accordance with City-issued procedures, and shall become effective upon service on the permittee or other appropriate person by certified mail, return receipt requested, sent to such person's address specified in the land records of the locality, or by personal delivery by an agent of the Administrator.

(4) The Administrator is authorized if, in the Administrator's discretion, any violation is adversely affecting, or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within, the watersheds of the Commonwealth, or otherwise is causing a substantial adverse impact to water quality, to issue the permittee or other appropriate person, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site. The Administrator shall provide an opportunity for a hearing, after reasonable notice, as to the time and place thereof, to a permittee, in order to determine whether to affirm, modify, amend, or cancel such emergency order.

(b) In addition to any other remedy provided by this chapter, if the Administrator determines that there is a failure to comply with the provisions of this chapter, the Administrator may initiate such informal or formal administrative enforcement procedures in a manner authorized by this chapter and any applicable City requirements. Such measures include, but are not limited to:

(1) With the consent of any person subject to a Richmond Stormwater Management Program Permit who has violated the Richmond Stormwater Management Program Permit; who has failed to comply with any decision of the Administrator or City; or who has violated the terms of any order issued by the Administrator or the City, a consent special order issued pursuant to Code of Virginia, § 62.1-44.15:48. A consent special order shall order the person to comply with the terms of the order, as well as any provision of this article or decision by the Administrator or the City. Such special orders shall be issued in accordance with City-issued requirements, including requirements for public notice and comment, unless issued as an emergency order consistent with subsection (a)(4) of this section. Special orders may include a civil charge for violations of the requirements listed above, instead of civil penalties that could be imposed pursuant to this section. The provisions of this subsection notwithstanding, the City, in its discretion, may proceed directly with other enforcement measures authorized by this article.

(2) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, or any permit condition issued by the Administrator or any provisions of this chapter may be compelled in a proceeding instituted by the City in any appropriate court to obey such rule, regulation, ordinance, order, or permit condition and to comply therewith, by injunction, mandamus or other appropriate remedy.

(3) Any person who violates any provision of this chapter or who fails, neglects or refuses to comply with any order of the Administrator or City, shall be subject to a civil penalty not to exceed $32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The City may issue a summons for the collection of the civil penalty and the action may be prosecuted in the appropriate court. Violations for which a penalty may be imposed shall include, but not be limited to:

   a. No State permit registration;

   b. No stormwater pollution prevention plan;

   c. Incomplete stormwater pollution prevention plan;

   d. Stormwater pollution prevention plan not available for review;

   e. No approved erosion and sediment control plan;

   f. Failure to install best management practices or erosion and sediment controls;

   g. Best management practices or erosion and sediment controls improperly installed or maintained;

   h. Operational deficiencies;

   i. Failure to conduct required inspections;

   j. Incomplete, improper, or missed inspections; and

   k. Discharges not in compliance with the requirements of the general permit.

(4) Notwithstanding any other civil or equitable remedy provided by this section or otherwise by law, any person who willfully or negligently violates any provision of this article, any order of the Administrator, any condition of a permit, or any order of a court pertaining to this article, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not more than $2,500.00, either or both.

(Code 2004, § 50-414; Code 2015, § 14-335; Ord. No. 2014-116-89, § 3, 5-27-2014; Ord. No. 2018-025, § 1, 2-26-2018)

Sec. 14-336. Fees.

Fees to cover costs associated with implementation of the Richmond Stormwater Management Program in this article shall be imposed in accordance with this section.

(1) The fees provided in this subsection apply:

   a. To any operator seeking coverage under the July 1, 2014, General Permit for Discharges of Stormwater from Construction Activities; or

b. On or after July 1, 2014, to any operator seeking coverage under a General Permit for Discharges of Stormwater from Construction Activities, a State or Federal agency that does not file annual standards and specifications or an individual permit issued by the Board.

c. The fees described in this subsection (1) shall be as follows:

Fee to cover cost associated with VSMP implementation. Fee for any operator seeking coverage under a RSMP Authority permit	
Chesapeake Bay Preservation Act Land-Disturbing Activity (Not subject to general permit coverage; sites within the City with land disturbance acreage equal to or greater than 2,500 square feet and less than one acre) ($0.00 paid to the Virginia Department of Environmental Quality)	$290.00
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than one acre and less than five acres) ($756.00 paid to the Virginia Department of Environmental Quality, based upon 28 percent of total fee paid)	$2,700.00
Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than five acres and less than ten acres) ($952.00 paid to the Virginia Department of Environmental Quality, based upon 28 percent of total fee paid)	$3,400.00
General/Stormwater Management – Small Construction Activity/Land Clearing (For single-family detached residential structures within or outside of a common plan of development of sale with land disturbance acreage less than five acres) ($0.00 paid to the Virginia Department of Environmental Quality)	$209.00
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre, except for single-family detached residential structures) ($81.00 paid to the Virginia Department of Environmental Quality based upon 28 percent of total fee paid)	$290.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than ten acres and less than 50 acres) ($1,260.00 paid to the Virginia Department of Environmental Quality, based upon 28 percent of total fee paid)	$4,500.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) ($1,708.00 paid to the Virginia Department of Environmental Quality, based upon 28 percent of total fee paid)	$6,100.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) ($2,688.00 paid to the Virginia Department of Environmental Quality, based upon 28 percent of total fee paid)	$9,600.00

d. An applicant shall pay the fees provided in this subsection (1) for initial issuance of general permit coverage and for a Richmond Stormwater Management Program Permit. No more than 50 percent of the total fee to be paid by the applicant shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted to the City for review. The applicant shall pay the balance of the fee prior to the issuance of coverage under the general permit. When a site or sites are purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites as set forth in this subsection.

(2) A permittee who wishes to modify or transfer registration under the general permit shall pay the fees provided in this subsection under the terms included therein.

Fee for modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities issued by the State Water Control Board. If the State permit modifications result in changes to stormwater management plans that require additional review by the City, such reviews shall be subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the State permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial State permit fee paid and the State permit fee that would have applied for the total disturbed acreage as stated above for initial coverage	
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre)	$20.00
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than one acre and less than five acres)	$200.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than five acres and less than ten acres)	$250.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than ten acres and less than 50 acres)	$300.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$450.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	$700.00
Individual Permit for Discharges of Stormwater from Construction Activities	$5,000.00

(3) Each permittee shall pay the fees provided in this subsection for annual permit maintenance, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, the fees shall apply until the permit coverage is terminated. The permittee shall pay the applicable annual maintenance fees to the City by the anniversary date of the general permit coverage. No permit will be reissued or automatically continued without payment of the required fee.

Annual Fee For Permit Maintenance	
Chesapeake Bay Preservation Act Land-Disturbing Activity (Not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Preservation Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one acre)	$50.00
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre)	$50.00
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than one acre and less than five acres)	$400.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas	$500.00

within common plans of development or sale with land disturbance acreage equal to or greater than five acres and less than ten acres)	
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than ten acres and less than 50 acres)	$650.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$900.00
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	$1,400.00

(4) Permit and permit coverage maintenance fees provided in this section may apply to each permittee with general permit coverage. No general permit application fees will be assessed to:

a. Permittees who request minor modifications, as defined in this article, to general permit coverage. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt.

b. Permittees whose general permit coverage requirements are modified or amended at the initiative of the Department of Environmental Quality, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

c. All incomplete payments will be deemed as nonpayments, and the Administrator shall notify the applicant of any incomplete payments. Interest may be charged for late payments at the rate and in the manner set forth in this Code. A ten percent late payment fee shall be charged to any delinquent account (over 90 days past due). The City shall be entitled to all remedies available under the Code of Virginia or other applicable law in collecting any past due amount.

(5) Each applicant whose application for a permit is withdrawn or rejected and each permittee whose permit is withdrawn after issuance shall pay an administrative fee and, if a plans review has been undertaken, a plans review fee. The administrative fee and plans review fee shall each be five percent of the initial permit fee or $25.00, whichever is greater.

(6) Each permittee whose plans are revised after the permit is issued shall pay a revised plans fee of ten percent of the initial permit fee or $50.00, whichever is greater.

(7) Any excess fee greater than $2.00 shall be returned to the permit holder upon written request.

(Code 2004, § 50-415; Code 2015, § 14-336; Ord. No. 2014-116-89, §§ 3, 4, 5-27-2014; Ord. No. 2015-49-59, § 1, 3-23-2015; Ord. No. 2018-085, §§ 1, 2, 5-14-2018)

Sec. 14-337. Performance bond.

(a) Prior to issuance of any permit, the applicant shall be required to submit to the City a reasonable performance bond with surety, a cash escrow, a letter of credit, or any combination thereof, or such other legal arrangement acceptable to the City, to ensure, if the permit is issued to the applicant, that the City could take measures at the permittee's expense if the permittee fails, after proper notice, and within the time specified by the Administrator, to initiate or maintain appropriate actions which are required of the applicant by the permit conditions, by materials submitted in support of the permit application, or otherwise by this article. If the City takes such action upon such failure by the permittee, the City also may collect from the permittee the difference between the actual, reasonable cost of the City's action and the amount of security if the actual, reasonable cost of the City's action exceeds the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or un-obligated portion thereof, shall be refunded to the applicant or terminated.

(b) For the purpose of establishing the portion of the bond or other security associated with erosion and

sediment control obligations, the amount shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on the unit price for new public or private sector construction in the City and a reasonable allowance for estimated administrative costs and inflation. The allowance for estimated administrative costs and inflation shall not exceed 25 percent of the cost of the conservation action.

(c) Within 60 days of adequate stabilization of erosion and sediment control measures, but only when at least 80 percent of the vegetation on the project or a project section is established as determined by the Administrator in any project or section of a project, the bond, cash escrow or letter of credit, or the unexpended or un-obligated portion thereof, relating to erosion and sediment control obligations for the project or project sector either shall be refunded to the permittee or terminated.

(Code 2004, § 50-416; Code 2015, § 14-337; Ord. No. 2014-116-89, § 3, 5-27-2014)

Sec. 14-338. Notice of termination.

(a) The Administrator shall recommend that the Department of Environmental Quality terminate coverage under the general permit within 60 days of receiving a complete notice of termination from the operator of the construction activity.

(b) Coverage under the general permit shall be deemed to be terminated 90 days after the receipt by the Administrator of a complete notice of termination from the operator of the construction activity.

(c) If the Administrator receives a notice of termination of a general permit that he or she determines to be incomplete, the Administrator shall, within a reasonable time, inform the operator of such incompleteness and provide the operator with a detailed list itemizing the elements of information that are missing from the notice of termination of the construction activity.

(Code 2015, § 14-338; Ord. No. 2018-150, § 1, 5-29-2018)

Chapter 15

HEALTH*

***Charter reference—**Authority of City to protect health and safety of its inhabitants, § 2.04.

Cross reference—District Health Department, § 2-348 et seq.; animals, Ch. 4; rabies control, § 4-337 et seq.; massage therapy, § 6-60 et seq.; tattoo parlors, § 6-90 et seq.; foods and food establishments, § 6-240 et seq.; sanitation of food establishments, § 6-340 et seq.; cemeteries, Ch. 7; environment, Ch. 11; housing Ch. 16; solid waste, Ch. 23; utilities, Ch. 28.

State law reference—Authority to abate nuisances, Code of Virginia, § 15.2-900 et seq.; health generally, Code of Virginia, § 32.1-1 et seq.

ARTICLE I. IN GENERAL

Sec. 15-1. Functions, powers and duties of District Health Department and District Health Director.

In order to provide continuity in the performance of the functions, powers and duties of the District Health Department and District Health Director, whenever the District Health Department is referred to in any ordinance, resolution or section of this Code, as it exists or may be modified, amended or succeeded, it shall mean the District Health Department created pursuant to Code of Virginia, § 32.1-31; and whenever the District Health Director is referred to in any such ordinance, resolution or section of this Code, it shall mean the Director of the District Health Department appointed pursuant to the contractual agreement referred to in Code of Virginia, § 32.1-31 and the District Health Director appointed by the Chief Administrative Officer.

(Code 1993, § 14-1; Code 2004, § 54-1; Code 2015, § 15-1; Ord. No. 2004-360-330, § 1, 12-13-2004)

Cross reference—Departments, § 2-239 et seq.; District Health Department, § 2-348 et seq.; additional powers and duties of District Health Director, § 2-349; enforcement of rules pertaining to pollution of water supply, § 28-485.

State law reference—Local health departments, Code of Virginia, § 32.1-31.

Sec. 15-2. Police powers of officers, assistants and employees charged with enforcement of health regulations.

Police power is hereby conferred upon such officers, assistants, clerks and employees as may be charged with the enforcement of the health regulations of the City, while in the discharge of their official duties. Any person who shall, by threat or force, attempt to intimidate or impede such officers, assistants, clerks or employees, while in the discharge of their duties, shall be punished as provided in Section 1-16.

(Code 1993, § 14-6; Code 2004, § 54-3; Code 2015, § 15-3)

Editor's note—Ord. No. 2017-093, § 2, adopted May 22, 2017, repealed former § 15-2, which pertained to Advisory Board of Health and derived from Code 1993, § 14-2; Code 2004, § 54-2.

Sec. 15-3. Misrepresentations of specimens submitted to District Health Department for examination.

It shall be unlawful for any person willfully to misstate or mislabel the source of any specimen submitted by such person to the District Health Department for examination or to make any other willful misstatement, verbally or in writing, concerning the specimen so submitted.

(Code 1993, § 14-4; Code 2004, § 54-4; Code 2015, § 15-4)

Sec. 15-4. Communicable diseases.

(a) *Duty of physicians to report existence and recovery or death of patients.* Every physician practicing in the City who shall be in attendance upon a patient affected with any communicable disease specified by the United States or the State public health services as reportable shall report the name and location of the patient to the District Health Department within 24 hours after the physician is satisfied of the existence of such disease. For a failure to comply with either of these requirements, the physician so offending shall be fined $10.00 for every 24 hours the physician so fails to report concerning such patient.

(b) *Placarding premises.* Whenever a report is made to the Office of the District Health Department of the existence of a communicable disease upon any premises, the District Health Director may cause a card to be placed within or without such premises, as the director may see fit, with such words of precaution as may be deemed

necessary.

(c) *Recovery of expenses incurred by City.* All expenses incurred for the removal of any person infected with a dangerous disease and for maintaining, nursing, and curing such person or incurred in entering any lot, house or vessel suspected of having persons or things infected with a dangerous infectious disease therein and removing them to the hospital shall be paid by such infected person or by the owner of such lot, house or vessel, as the case may be, or if an infant by its parent or guardian. An account of all such expenses not paid shall be filed with the Director of Finance who shall, unless the amount thereof is paid, cause the expenses to be recovered from the person liable therefor, by suit or warrant, as the case may be.

(Code 1993, § 14-5; Code 2004, § 54-5; Code 2015, § 15-5)

State law reference—Disease prevention and control, Code of Virginia, § 32.1-35 et seq.

Sec. 15-5. Certificates of births and deaths.

The District Health Director shall furnish to any applicant a certified copy of the record of any birth or death registered in the Director's Office prior to the date that responsibility for the maintenance of birth and death records was assumed by the State. To defray the cost of making and certification of such copy, the District Health Director shall be entitled to a fee of $5.00, to be paid by the applicant. The District Health Director shall pay into the City treasury all fees collected as provided in this section.

(Code § 1993, § 14-3; Code 2004, § 54-6; Code 2015, § 15-6)

State law reference—Vital records and health statistics, Code of Virginia, § 32.1-249 et seq.

Secs. 15-6—15-30. Reserved.

ARTICLE II. PUBLIC HEALTH NUISANCES GENERALLY*

***Charter reference—**Authority of City to compel removal of unsanitary or unhealthful substances from premises, § 2.04(m).

Cross reference—Nuisances, § 11-51 et seq.

State law reference—Authority of City to abate nuisances, Code of Virginia, §§ 15.2-900 et seq., 15.2-1115.

Sec. 15-31. Applicability.

The various acts, conditions and situations as provided for in this article are hereby declared unlawful and nuisances, but shall not be deemed exclusive as to all other nuisances described and prohibited in this Code.

(Code 1993, § 14-21; Code 2004, § 54-41; Code 2015, § 15-31)

Sec. 15-32. Placing filth or nuisance upon private property of another.

If any person shall put or cause to be put into any cellar or house or upon any other private property not owned or occupied by such person any filth or nuisance of any kind, the person shall be guilty of committing a nuisance.

(Code 1993, § 14-22; Code 2004, § 54-42; Code 2015, § 15-32)

Sec. 15-33. Permitting noxious, unwholesome or offensive matter or nuisance on private property.

It shall be unlawful for any person to have or permit any noxious, unwholesome or offensive matter or nuisance of any kind in any house, cellar or upon any other private property owned or occupied by such person.

(Code 1993, § 14-23; Code 2004, § 54-43; Code 2015, § 15-33)

Sec. 15-34. Stagnant water.

It shall be unlawful for any person to have or permit any stagnant water to stand on any property owned or occupied by such person. The District Health Director shall give five days' written notice to every such person to abate the nuisance cited within the time to be specified therein by the Director. Such notice shall be mailed to the last known post office address of such person or an agent, and the mailing thereof shall constitute giving the notice, unless the property is vacant and the post office address of the owner thereof is unknown or such owner is a nonresident of the City and has no agent therein, in which event the notice shall be given by publication in a newspaper published in the City once a week for four successive weeks. Every person who fails or refuses to abate any nuisance after the giving of notice by the District Health Director shall, upon conviction, be punished as

provided in Section 1-16, and the District Health Director shall cause the property to be filled up, raised or drained and shall collect the cost and expense thereof from the owners or occupants of the property or either of them in the same manner in which taxes levied upon real estate are collected.

(Code 1993, § 14-24; Code 2004, § 54-44; Code 2015, § 15-34)

Sec. 15-35. Order of abatement or removal; procedure upon failure to comply with order.

In every case arising under Sections 15-31 through 15-34, a judge of the General District Court, in addition to the imposition of any fine, may order the nuisance complained of to be abated or removed, whether specially so directed or not, and shall prescribe the time within which such order shall be executed. If any person shall, after notice of the order, fail or refuse to obey the order within the time prescribed, not in any case to exceed ten days, such person shall, upon conviction, be punished as provided in Section 1-16, and the judge may moreover cause such nuisance to be abated at the cost of the person offending.

(Code 1993, § 14-25; Code 2004, § 54-45; Code 2015, § 15-35)

Sec. 15-36. Placarding of structures, buildings or facilities that constitute imminent, substantial or compelling threat to public health or environment.

If the District Health Director determines that a nuisance as defined in this article constitutes an imminent, substantial or compelling threat to the public health or the environment, the District Health Director may placard the structure, building or facility as unfit or unsafe for human occupancy or use. The placard shall be posted at all normal means of egress to the structure, building or facility. As soon as possible after placarding, the District Health Director shall mail or deliver a notice to all owners and occupants of the structure, building or facility informing such persons of the reason for placarding and the penalty for occupancy or reuse while placarded. Once the structure, building or facility is placarded, occupancy or use shall be prohibited. Occupancy or use or permitting the occupancy or use of a placarded structure, building or facility shall constitute a Class 1 misdemeanor. No reoccupancy or reuse shall occur until the District Health Director approves in writing the reoccupancy or reuse. Removal of a placard without permission of the District Health Director shall constitute a Class 1 misdemeanor.

(Code 1993, § 14-26; Code 2004, § 54-46; Code 2015, § 15-36)

Secs. 15-37—15-60. Reserved.

ARTICLE III. RODENT CONTROL*

***Cross reference—**Animals, Ch. 4; environment, Ch. 11.

State law reference—Pesticides, Code of Virginia, § 3.2-3900 et seq.; rodent control, Code of Virginia, § 32.1-247.

Sec. 15-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the District Health Director or duly authorized representatives.

Hardware cloth means wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rats and mice.

Occupant means a person who as tenant or lessee occupies or is in possession of a premises.

Owner means a person who, alone or jointly with another or others, holds beneficial ownership of a premises; and an agent, executor, administrator, trustee or guardian having charge, care, management or control of a premises.

Rat harborage means any place where rats are living and nesting.

Ratproofing means closing openings in building foundations and openings under and around doors, windows, vents and other places, which may or could provide means of entry for rats, in a manner approved by the Director, with concrete, sheet iron, hardware cloth or any other type of material approved by the Director.

(Code 1993, § 14-41; Code 2004, § 54-81; Code 2015, § 15-61)

Cross reference—Definitions generally, § 1-2.

Sec. 15-62. Authority of Director.

The Director shall have the power to make rules and regulations for the administration and enforcement of this article.

(Code 1993, § 14-42; Code 2004, § 54-82; Code 2015, § 15-62)

Sec. 15-63. Violation; penalties.

Every person who violates any section of this article or any rule or regulation promulgated by the Director pursuant to this article shall, upon conviction, be punished as provided in Section 1-16.

(Code 1993, § 14-49; Code 2004, § 54-83; Code 2015, § 15-63)

Sec. 15-64. Removal of rat harborages.

It is unlawful to allow accumulations of rubbish, boxes, lumber, scrap metal, vehicle bodies and any other articles or materials that may provide a rat harborage. Any such articles or materials shall be removed or stored to eliminate rat harborage. Whenever any lumber, boxes or similar articles or materials are stored, they shall be neatly piled at least one foot above the ground or floor. Violation of this section is a Class 1 misdemeanor.

(Code 1993, § 14-43; Code 2004, § 54-84; Code 2015, § 15-64)

Sec. 15-65. Storage of refuse.

It shall be unlawful for any person to place or allow to accumulate refuse that may serve as food for rats or other rodents in a place accessible to rats or other rodents. All such material that may serve as food for rats or other rodents shall be stored in accordance with Chapter 23.

(Code 1993, § 14-44; Code 2004, § 54-85; Code 2015, § 15-65)

Sec. 15-66. Covering of refuse containers.

Lids or other coverings for all openings in refuse containers shall be tightfitting to prevent entrance by rats or other rodents.

(Code 1993, § 14-45; Code 2004, § 54-86; Code 2015, § 15-66)

Sec. 15-67. Manner of storing feed for birds.

All feed for birds shall be placed on raised platforms or where it is not accessible to rats or other rodents.

(Code 1993, § 14-46; Code 2004, § 54-87; Code 2015, § 15-67)

Sec. 15-68. Extermination of rodents.

(a) Whenever rats or other rodents are found on any private premises in the City, extermination measures shall be initiated immediately. On premises occupied by two or more occupants, the owner of the premises shall keep that part of the premises used in common by all occupants free from rat or other rodent infestation. The premises or part thereof in the exclusive possession and control of an occupant shall be kept free of rat or other rodent infestation by the occupant.

(b) Rat or other rodent infestation on public sidewalk areas, public streets, public alleys, or in public sewers shall be eliminated by the Director. Infestation in public buildings or on vacant land owned by the City shall be eliminated by the City department having custody of the premises. Advice concerning elimination of the infestation shall be provided by the Director upon request.

(c) Whenever the owner or person having custody of vacant private premises fails to exterminate rats or other rodents when notified to do so by the Director and it is impossible or impractical to serve a court summons on such individual, the Director shall post a notice on the premises stating that it is the Director's intention to eliminate the rats or other rodents after the expiration of five days. The Director shall transmit to the Director of Finance a statement of all costs incurred. The Director shall not be guilty of a trespass when entry upon the premises is necessary to eradicate rats on vacant private property.

(d) No building shall be demolished until rat or other rodent infestation has been eliminated by the owner, contractor or other person responsible for the demolition. The Director shall hold the owner responsible for such

eradication. The sewer to each building to be demolished shall be disconnected at the property line prior to demolition and effectively capped to prevent the entrance or exit of rats or other rodents.

(e) An owner or occupant shall not place Compound 1080 on any premises under any condition, nor shall ANTU, phosphorus, thallium sulfate, or any equally dangerous rodenticide be placed on premises where it is easily accessible to children or pets or where it may contaminate food or drink.

(Code 1993, § 14-47; Code 2004, § 54-88; Code 2015, § 15-68)

Sec. 15-69. Elimination of harborages within or under sheds.

Harborages within or under any shed, garage or other similar structure shall be eliminated by ratproofing, by raising such structure above the ground, or by such other method approved by the Director; in lieu thereof, such shed, garage or structure shall be razed. The Director shall not require the alteration of such structure for rodent control purposes unless rats or other rodents are or have been living under or in the structures.

(Code 1993, § 14-48; Code 2004, § 54-89; Code 2015, § 15-69)

Secs. 15-70—15-96. Reserved.

ARTICLE IV. PAINT AND OTHER SUBSTANCES CONTAINING LEAD*

***Cross reference—**Buildings and building regulations, Ch. 5.

Sec. 15-97. Purpose.

The purpose of this article is to adopt measures designed to eradicate lead exposure. Such measures are intended to prevent childhood lead poisoning resulting from the assimilation of lead-bearing substances into the bodies of young children by means of ingestion, inhalation, and absorption. This assimilation constitutes a serious hazard to the health, safety, and welfare of the children of the City.

(Code 1993, § 14-60; Code 2004, § 54-121; Code 2015, § 15-97; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-98. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the Virginia Board for Asbestos, Lead, and Home Inspectors.

Child and *children* mean a person six years of age or under.

Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, six years of age or under, on at least two different days, within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

Dwelling unit means a room, group of rooms, or other interior area of a building, all or part of which room, group of rooms or other interior area is either designed or used for human habitation or human occupancy.

Elevated blood-lead level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of ten g/dl (micrograms of lead per deciliter of whole blood) or greater for a single venous test.

Interim controls means a set of measures designed to temporarily reduce human exposure or likely human exposure to lead-based paint hazards that include specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential lead-based paint hazards and the establishment and operation of management and resident education programs.

Lead abatement means any measure or set of measures designed to permanently eliminate lead-based paint hazards, including lead-contaminated dust or soil.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

Lead-based paint activity means lead inspection, lead risk assessment, lead project design and abatement of

lead-based paint and lead-based paint hazards, including lead-contaminated dust and lead-contaminated soil.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Environmental Protection Agency, pursuant to the Toxic Substances Control Act, Section 403.

Lead contractor means a person who has met the requirements of the Virginia Board for Asbestos, Lead, and Home Inspectors and has been issued a license by the Board to enter into contracts to perform lead abatements.

Lead inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provisions of a report explaining the results of the investigation.

Lead inspector means an individual who has been licensed by the Board to conduct lead inspections and abatement clearance testing.

Lead risk assessment means:

(1) An on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards; and

(2) The provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Lead risk assessor means an individual who has been licensed by the Virginia Board for Asbestos, Lead and Home Inspectors to conduct lead inspections, lead risk assessments and abatement clearance testing.

Owner means:

(1) The owner or owners of the freehold of the premises or lesser estate therein;

(2) A mortgagee or vendee in possession; or

(3) An assignee of rents, a receiver, an executor, a trustee, or a lessee in control of a building or structure.

Residential dwelling means:

(1) Target housing that is a detached single-family dwelling, including attached structures such as porches and stoops; or

(2) Target housing that is a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more individuals.

Target housing means any housing constructed prior to 1978, except for housing for the elderly, or persons with disabilities, unless any one or more children six years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities or any zero-bedroom dwelling.

(Code 1993, § 14-61; Code 2004, § 54-122; Code 2015, § 15-98; Ord. No. 2005-157-151, § 1, 7-25-2005)

Cross reference—Definitions generally, § 1-2.

Sec. 15-99. Testing of children for elevated blood-lead levels—Generally.

A health care provider shall test any child for elevated blood-lead level, or have such a child tested, if the provider determines, in the exercise of medical discretion, that such testing is warranted and that the child meets one or more of the criteria established by regulations promulgated pursuant to the Code of Virginia.

(Code 1993, § 14-62; Code 2004, § 54-123; Code 2015, § 15-99; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-100. Testing of children for elevated blood-lead levels—Application to health care providers.

(a) Each physician in the City shall test or screen eligible patients for lead exposure at the interval and methods as required by law.

(b) Each licensed, registered, or approved health care facility serving children, including, but not limited to, hospitals and clinics, shall provide testing or screening as described in subsection (a) of this section.

(Code 1993, § 14-63; Code 2004, § 54-124; Code 2015, § 15-100; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-101. Testing of children for elevated blood-lead levels—Followup testing and treatment.

All facilities providing followup testing and treatment shall use methods outlined by the Centers for Disease Control and Prevention, the Virginia Department of Health, and the District Health Department.

(Code 1993, § 14-64; Code 2004, § 54-125; Code 2015, § 15-101; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-102. Testing of children for elevated blood-lead levels—Responsibility of parents, guardians or other persons acting in loco parentis.

Parents, guardians, or other persons acting in loco parentis of children having a lead-to-blood ratio of at least ten g/dl (micrograms per deciliter of whole blood) shall take all reasonable precautions to prevent such children from being further exposed to paint and other substances containing lead in excess of the percentage stated in the applicable lead-based paint provisions of the Virginia Uniform Statewide Building Code.

(Code 1993, § 14-65; Code 2004, § 54-126; Code 2015, § 15-102; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-103. Powers and responsibilities of the City.

(a) The District Health Department shall ensure that any dwelling unit or child-occupied facility constructed before 1978 where a child or pregnant woman with a reported elevated blood-lead level resides receives a lead risk assessment by a licensed lead risk assessor.

(b) If the building was built prior to 1978 and a City employee finds there is reasonable suspicion that lead hazards exist in the building, the District Health Department may perform a lead risk assessment or clearance testing or both. The fee for lead risk assessment shall be $350.00, and the fee for clearance testing shall be $225.00.

(Code 1993, § 14-67; Code 2004, § 54-128; Code 2015, § 15-103; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-104. Lead risk assessment; notice of violation; reinspection.

(a) *Request for lead risk assessment.* Any resident or owner of any dwelling unit in the City constructed before 1978 may request that the City provide a lead risk assessment or clearance testing, or both, for that dwelling unit for lead-based paint hazards. The fee for lead risk assessment shall be $350.00, and the fee for clearance testing shall be $225.00.

(b) *Notice of violation.* If a lead risk assessment for lead-based paint hazards reveals lead-based paint hazards, the City shall issue to the owner of the property a notice of violation that shall state the following:

(1) The owner is required to use interim controls to temporarily reduce human exposure or likely exposure to lead-based paint hazards within 30 days of receipt of the notice of violation. Alternatively, the owner may cause lead abatement to be performed within 30 days of receipt of the notice of violation. The property owner may employ interim control measures if:

   a. The residence is owner-occupied;

   b. The owner obtains training in lead safe work practices prior to the beginning of interim control work; and

   c. The owner provides documentation of said training to the lead risk assessor. If lead abatement is elected, such lead abatement must be performed by a licensed lead abatement contractor in compliance with the laws and regulations of the City, the State, and the Federal government, including the Centers for Disease Control and Prevention; or

(2) The owner is required to eliminate the lead-based paint hazard using a licensed lead abatement contractor in compliance with the laws and regulations of the City, the State, and the Federal government, including the Centers for Disease Control and Prevention.

(c) *Additional time.* At its sole discretion, the City may grant additional time to remove, abate or remedy such lead-based paint hazard or the City may allow the use of acceptable interim controls. However, in no event shall the total time period allowed to reduce exposure to lead-based paint hazards be more than 90 days after the owner's receipt of the notice of violation.

(d) *Reinspection.* The City shall reinspect a dwelling unit within ten working days of the end of the 90-day period to determine if adequate interim controls have been used or if the lead-based paint hazards identified in the original notice of violation have been abated as required. If all of the lead-based paint hazards have been remedied, the City shall issue a lead-based paint compliance letter to the owner. If any of the lead-based paint hazards have not been remedied, the City shall issue a criminal summons to the owner.

(Code 1993, § 14-68; Code 2004, § 54-129; Code 2015, § 15-104; Ord. No. 2005-157-151, §§ 1, 4, 7-25-2005)

Sec. 15-105. Abating and reducing hazardous levels of lead—Duty of owner.

(a) *Dwelling unit.* The owner of a dwelling unit where the interior or exterior painted surfaces of the dwelling unit, including fences and outbuildings, contain hazardous lead levels or constitute a lead-based paint hazard shall maintain that property in a condition free from peeling, chipping, cracking and flaking paint or shall remove or cover all leaded areas in a manner approved by the City.

(b) *Child-occupied facility.* Any owner of a child-occupied facility shall have that child-occupied facility inspected annually at the owner's sole expense if a child frequenting the child-occupied facility tests positive for childhood lead poisoning. If the interior or exterior painted surfaces of the child-occupied facility, including fences and outbuildings, contain hazardous lead levels or constitute a lead-based paint hazard, then the owner shall maintain that property in a condition free from peeling, chipping, cracking and flaking paint or by removing or shall remove or cover all leaded areas in a manner approved by the City. These annual inspections shall continue as long as the property remains a child-occupied facility.

(Code 1993, § 14-69; Code 2004, § 54-130; Code 2015, § 15-105; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-106. Abating and reducing hazardous levels of lead—Notices.

(a) The City shall notify the owner when it finds that a property contains hazardous lead levels or constitutes a lead-based paint hazard as the result of a lead inspection within five days. Such notice shall be provided in accordance with the Virginia Uniform Statewide Building Code notice provisions.

(b) The District Health Department shall notify any occupant of a dwelling unit if a child residing in that unit tests positive for childhood lead exposure within five days of the department's receipt of the test results.

(Code 1993, § 14-70; Code 2004, § 54-131; Code 2015, § 15-106; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 15-107. Penalty.

Any owner or any other person violating any provision of this article relating to the removal or the covering of lead-based paint which poses a hazard to the health of pregnant women and children who occupy the dwelling unit or child-occupied facility shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than $2,500.00. If the court convicts pursuant to this section and sets a time by which such hazard must be abated, each day the hazard remains unabated after the time set for the abatement has expired shall constitute a separate violation. Upon a reasonable showing to the court by a landlord as defined in Code of Virginia, § 55-248.4 that such landlord is financially unable to abate the lead-based paint hazard, the court shall order any rental agreement related to the affected premises terminated effective 30 days from the entry of the court order.

(Code 1993, § 14-72; Code 2004, § 54-133; Code 2015, § 15-107)

Sec. 15-108. Responsibilities of District Health Director.

Whenever it is brought to the attention of the District Health Director that a child residing within the City has been found to have a lead-to-blood ratio of at least ten micrograms of lead per 100 milliliters of whole blood and that such child's dwelling or a child-occupied facility, including fences and outbuildings, is alleged to be in noncompliance with the applicable lead based paint provisions of the Virginia Uniform Statewide Building Code, the Director or his designee shall notify the local Office of the United States Department of Housing and Urban Development of the findings as to the lead level and, in connection therewith, shall also provide the address of any property alleged to be in noncompliance with such provisions of the Virginia Uniform Statewide Building Code.

(Code 2004, § 54-134; Code 2015, § 15-108; Ord. No. 2005-157-151, § 3, 7-25-2005)

Secs. 15-109—15-129. Reserved.

ARTICLE V. SEPTIC SYSTEMS WITHIN DESIGNATED CHESAPEAKE BAY PRESERVATION AREAS

Sec. 15-130. Maintenance of sewage treatment systems.

All on-site sewage treatment systems within a Chesapeake Bay Preservation Area not requiring a Virginia Pollution Discharge Elimination System permit shall be pumped and maintained in accordance with Section 14-263(12).

(Code 2004, § 54-151; Code 2015, § 15-130; Ord. No. 2006-267-264, § 1, 10-23-2006; Ord. No. 2018-025, § 1, 2-26-2018)

Cross reference—Chesapeake Bay preservation areas, § 14-179 et seq.

Chapter 16

HOUSING*

***Cross reference—**Department of Housing and Community Development, § 2-315 et seq.; buildings and building regulations, Ch. 5; paint and other substances containing lead, § 15-97 et seq.

State law reference—Housing, Code of Virginia, § 36-1 et seq.

ARTICLE I. IN GENERAL

Sec. 16-1. Definitions.

For the purposes of this chapter, the following words and terms have the meaning set forth in this section, unless the context clearly indicates that a different meaning is intended:

Affordable income household, extremely low income means a household with a household gross income adjusted for family size by the United States Department of Housing and Urban Development that is 30 percent of area median income, which household pays no more than 30 percent of household gross income for housing.

Affordable income household, low income means a household with a household gross income adjusted for family size by the United States Department of Housing and Urban Development that is between 51 percent and 80 percent of area median income, which household pays no more than 30 percent of household gross income for housing.

Affordable income household, very low income means a household with a household gross income adjusted for family size by the United States Department of Housing and Urban Development that is between 31 percent and 50 percent of area median income, which household pays no more than 30 percent of household gross income for housing.

Workforce income household, above median income means a household with a household gross income adjusted for family size by the United States Department of Housing and Urban Development that is above 100 percent of area median income.

Workforce income household, middle income means a household with a household gross income adjusted for family size by the United States Department of Housing and Urban Development that is between 81 percent and 100 percent of area median income.

(Code 2015, § 16-1; Ord. No. 2018-229, § 1, 10-8-2018)

Cross reference—Definitions generally, § 1-2.

Sec. 16-2. Homeless strategic plan required.

(a) The Chief Administrative Officer shall prepare and submit to the City Council and the Mayor a written homeless strategic plan to eliminate homelessness in the City of Richmond by no later than October 1, 2019. Such plan shall be updated and submitted to the City Council and the Mayor by no later than October 1 every two years thereafter. At a minimum, the homeless strategic plan shall include the following:

(1) Recommendations for new standards for or amendments to the conditional use permit requirements to facilitate the development of housing or shelters for the homeless that are not overly burdensome in comparison to other zoning requirements or regulations applicable to the zoning district in which such housing or shelters are situated.

(2) An inventory of currently available housing or shelters for the homeless and operational costs for each facility.

(3) An assessment of the need for more housing or shelters and the costs to provide them.

(4) Identification of potential locations for additional housing or shelters and services which include a continuum of care model based on best practices.

(5) Goals and objectives for increasing the availability of housing or shelters for the homeless and

quantifiable metrics and performance measures for meeting those goals and objectives.

(6) A process for the participation of state, regional, and local organizations as well as residents of the City of Richmond in the planning and development of housing and shelters for the homeless, which includes a list of the state, regional, and local organizations as well as residents of the City of Richmond who participated in the planning and development of such housing and shelters for the homeless.

(7) A statement concerning any modifications to the plan and its progress in meeting the goals and objectives of the plan.

(8) Incorporation of strategies to lessen the negative externalities or burdens caused by homelessness for all neighborhoods in the City.

(9) A statement of the policies, procedures, and standards of service governing the provision of housing or shelter to homeless individuals in publicly owned properties by the City and any service contractors thereof.

(b) The Chief Administrative Officer shall report annually to the Council's Governmental Operations Standing Committee on the progress made toward the quantifiable metrics and performance measures called for in subdivision (5) of this section.

(c) The Chief Administrative Officer shall present to the Council within 45 days of adoption of the ordinance establishing this section a detailed schedule specifying each phase of development of the homeless strategic plan and the expected completion date of the homeless strategic plan.

(Code 2015, § 16-2; Ord. No. 2018-241, § 1, 12-17-2018)

Secs. 16-3—16-18. Reserved.

ARTICLE II. AFFORDABLE DWELLING UNIT PROGRAM ADMINISTRATIVE PROVISIONS*

***Cross reference—**Affording dwelling units, § 30-691 et seq.

State law reference—Affordable dwelling unit ordinances, Code of Virginia, § 15.2-2305.

Sec. 16-19. Purpose and intent.

Pursuant to the provisions of Code of Virginia, § 15.2-2305 and in furtherance of the purpose of providing affordable shelter for all residents of the City, the intent of this article is to provide for a voluntary affordable dwelling unit program that addresses housing needs, promotes a full range of housing choices, and encourages the construction and continued existence of housing affordable to low and moderate income citizens. The provisions of this article are intended to be applied in accordance with affordable dwelling unit program zoning regulations adopted by the City Council and set forth in Chapter 30.

(Code 2004, § 58-71; Code 2015, § 16-19; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-20. Definitions.

For the purposes of this article, certain words and terms used herein shall be interpreted as set forth in this section, unless otherwise specifically prescribed elsewhere in this article. Words and terms not defined herein shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context or, in the case of words or terms defined in Chapter 30, shall be interpreted in accordance with such definition contained therein.

Affordable dwelling unit means a dwelling unit for which the rental or sales price is limited pursuant to the provisions contained in this article and the provisions of Chapter 30, Article VI, Division 10.1.

Affordable dwelling unit for rent means a dwelling unit that is affordable for rental by households whose income is no more than 60 percent of the area median income in the Richmond-Petersburg Metropolitan Statistical Area, except as such percentage of the area median income may be adjusted with the approval of the City Council for purposes of avoiding potential economic loss by the owner or applicant as provided in this article.

Affordable dwelling unit for sale or affordable dwelling unit for purchase means a dwelling unit that is affordable for purchase by households whose income is no more than 80 percent of the area median income in the

Richmond-Petersburg Metropolitan Statistical Area, except as such percentage of the area median income may be adjusted with the approval of the City Council for purposes of avoiding potential economic loss by the owner or applicant as provided in this article.

Affordable dwelling unit plan means the detailed method for implementing an affordable dwelling unit program on a particular site as submitted by the applicant.

Affordable dwelling unit program means the process as set forth in this article and in Article VI of Chapter 30 by which increases in development density and other incentives are afforded the developer of a site in exchange for the voluntary provision of affordable dwelling units on the site.

Applicant means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or any transferee of all or part of the land at one location, or, when appropriate to the context, shall mean the owner or person or entity responsible for development of the affordable dwelling unit project.

Area median income means the median income determined annually for the Richmond-Petersburg Metropolitan Statistical Area by the United States Department of Housing and Urban Development.

Designee means any person or any agency of the City or any nonprofit entity or other entity designated by resolution of the City Council to administer certain specified aspects of the affordable dwelling unit program pertaining to the sale and rental and selection and qualification of households for occupancy of affordable dwelling units.

Director, except as otherwise indicated, means the Director of Planning and Development Review of the City.

Dwelling unit means a room or group of rooms within a building constituting a separate and independent unit occupied or intended for occupancy by one family and containing one kitchen and provisions for living, sleeping, eating and sanitation, all of which are generally accessible to all occupants of the unit, and which is not available for occupancy for periods of less than one month.

Dwelling unit type means any of the dwelling uses defined in Article XII of Chapter 30, and including the number of bedrooms contained therein.

Economic loss for sales units means the result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by this article, upon the sale of an affordable dwelling unit.

Eligible household means a person or household whose income qualifies the person or household to participate in the affordable dwelling unit program, and who holds a valid certificate of qualification, which may entitle the person or household to buy an affordable dwelling unit during a 90-day period specified by the certificate or to rent an affordable dwelling unit.

Owner means the fee simple owner of a property containing rental dwelling units.

Program administrator means the City employee appointed by the Director of Planning and Development Review to administer the provisions of this article for the City.

(Code 2004, § 58-72; Code 2015, § 16-20; Ord. No. 2008-39-59, § 2, 3-24-2008; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Cross reference—Definitions generally, § 1-2.

Sec. 16-21. Standards for affordable dwelling units.

Affordable dwelling units shall include fixtures, finishes, amenities and quality of construction corresponding to the fixtures, finishes, amenities and quality of construction included in market rate dwelling units of the same dwelling unit type on the site, while taking into account the purpose of the affordable dwelling unit program of providing affordable shelter.

(Code 2004, § 58-73; Code 2015, § 16-21; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-22. Program administration.

(a) *Administrator.* The Director is hereby designated by the City Council to implement the affordable

dwelling unit program. Such program shall be administered by the affordable dwelling unit program administrator who shall be appointed by the Director.

(b) *Establishment of rules and regulations.* The Director shall be authorized to establish reasonable rules and administrative regulations for the administration of the affordable dwelling unit program consistent with the provisions of this Code and general law.

(Code 2004, § 58-74; Code 2015, § 16-22; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-23. Program approval process.

Participation in the affordable dwelling unit program shall require approval of an affordable dwelling unit plan for the site by the program administrator in accordance with the provisions of this section.

(1) *Affordable dwelling unit plan submission requirements.* The applicant shall submit the following plans and information to the program administrator:

a. A copy of the proposed plan of development for the site.

b. A copy of plans submitted with the building permit application, or to be submitted with the building permit application if such application has not yet been made.

c. Such plans, specifications and other written or graphic information as necessary for the program administrator to determine compliance with the requirements of this article.

d. The estimated cost of construction of each affordable dwelling unit, including the pro rata share of physical site improvement costs for each such unit, but not including the cost of land acquisition.

e. The estimated pricing of the affordable dwelling units, which may take into account standard underwriting criteria and costs of occupancy, such as condominium and homeowners' association fees and utility costs in conformance with Code of Virginia, § 15.2-2305. Final pricing shall be determined by the designee at the time a contract of sale or lease is executed.

f. Income levels of households intended to qualify for occupancy of the affordable dwelling units.

g. Appropriate covenants or agreements shall be prepared by the owner or applicant's attorney and approved as to form by the City Attorney that bind the owner or applicant to the requirements of the affordable dwelling unit program.

(2) *Action by program administrator.* The program administrator shall review the affordable dwelling unit plan and approve, approve with conditions, or disapprove the plan. The action of the program administrator shall be set forth in writing and shall be provided to the applicant, the Zoning Administrator and the designee.

(3) *Approval of plan of development.* No plan of development required by Chapter 30 for a site intended to qualify for the affordable dwelling unit program shall be approved by the Director unless and until the program administrator has provided written certification to the Director that the affordable dwelling unit program criteria set forth in this article are satisfied and that the affordable dwelling unit plan for the site has been approved by the program administrator.

(Code 2004, § 58-75; Code 2015, § 16-23; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-24. Program adjustments.

(a) *Authority of City Council.* The City Council may adjust the program requirements establishing the income levels of households intended to qualify for occupancy of affordable dwelling units as they apply to affordable dwelling units in a particular development to the extent deemed necessary by the City Council to avoid potential economic loss on the part of the owner or applicant as a result of providing such affordable dwelling units. In such case, determination of potential economic loss shall be made by the City Council.

(b) *Authority of City Council's designee.* The designee shall have the authority to adjust any of the following program requirements as they apply to affordable dwelling units in a particular development to the extent deemed necessary by the designee to avoid potential economic loss on the part of the owner or applicant as a result of providing such affordable dwelling units:

(1) The standards for affordable dwelling units set forth in Section 16-21.

(2) The criteria for physical compatibility and dwelling unit sizes. In such case, determination of potential economic loss shall be made by the designee with the concurrence of the Director of Finance.

(c) *Request for adjustment.* A request for adjustment of program requirements shall be submitted in writing to the designee by the owner or applicant, and may be submitted at any time after approval of the affordable dwelling unit plan. Such request shall specify the basis on which the adjustment is requested, the justification for the adjustment, including a detailed explanation of the extent and cause of the potential economic loss alleged by the owner or applicant, a description of the adjustment sought, and such additional information as deemed necessary by the designee to satisfy the requirements of this section or to enable a decision on the request to be rendered. In the case of a request for adjustment to be made by the City Council, the designee shall forward such request to the Council.

(d) *Action on request for adjustment.* Upon receipt of a request for adjustment of program requirements containing all of the information required by this section, the City Council, in the case of a request for adjustment of household income levels, or the designee, as the case may be, shall review the request and approve, approve with modifications, or disapprove the request. Such action shall be set forth in writing and shall be provided to the owner or applicant, the program administrator and the designee.

(e) *Findings.* Adjustment of program requirements may be approved by the City Council or the designee only after demonstration by the owner or applicant and findings by the City Council or the designee, as the case may be, as to all of the following:

(1) The adjustment is necessary in order to avoid potential economic loss on the part of the owner or applicant as a result of providing the affordable dwelling unit or units, and is the minimum departure from the program requirements that will avoid such potential economic loss.

(2) Each program requirement to be adjusted is the most appropriate of the adjustments authorized by this section in consideration of the dwelling unit type involved, the character of the development and the surrounding neighborhood and the extent of the potential economic loss.

(3) The adjustment will not be contrary to the purpose and intent of this Code or general law.

(Code 2004, § 58-76; Code 2015, § 16-24; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-25. Notice of availability for sales or rental.

(a) *Notice required.* Before the issuance of certificates of use and occupancy for any or all of the affordable dwelling units in a project, and at any time after the issuance of building permits for the affordable dwelling units that are being offered, the applicant shall submit to the program administrator a completed notice of availability for sales or rental advising that the unit or units are or will be completed and available for sale or rental at a specified date, and that all affordable dwelling unit program criteria have been met, including the approval of final unit specifications and final prices or rents and that all required documents, such as plats, plan of development, building permits and covenants controlling the sale and rental of affordable dwelling units, have been approved or recorded as required.

(b) *Form and content.* The notice of availability for sales or rental shall be in the form prescribed by the program administrator and shall include specific identification of the affordable dwelling unit or units being offered, the number of bedrooms, floor area, amenities and sales price or rent of each such unit and shall include evidence of the issuance of a building permit for each affordable dwelling unit being offered.

(c) *Acceptance.* Acceptance and approval of such notice by the program administrator, which the program administrator shall forward in writing to the Commissioner of Buildings, shall serve as authorization for issuance of certificates of use and occupancy for the affordable dwelling unit or units. Upon acceptance of such notice, the program administrator shall provide a copy thereof to the designee for purposes of identifying households eligible to purchase or rent the unit or units involved.

(Code 2004, § 58-77; Code 2015, § 16-25; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-26. Administration of sale and rental of affordable dwelling units.

(a) *Generally.* The provisions of this article regarding the sale and rental of affordable dwelling units and the qualification and selection of households for occupancy of affordable dwelling units shall be administered by the City Council's designee. The designee may be any person or any agency of the City or any nonprofit entity or other entity having pertinent knowledge and experience.

(b) *Rules and standards.* The Director shall establish reasonable rules and standards that shall be followed by the designee in the administration of the sale, resale, rental and re-rental of affordable dwelling units and in the selection and qualification of households for occupancy of affordable dwelling units. Such rules and standards may include giving eligibility priority to persons who live or work in the City or requiring that purchasers be first-time homebuyers, or both. Such rules and standards shall include, but are not limited to, the following:

(1) Standards for determining eligibility to purchase or rent affordable dwelling units.

(2) The method of selecting eligible households.

(3) Standards for determining sale and rental prices by the designee for affordable dwelling units in conformance with applicable provisions of Code of Virginia, § 15.2-2305.

(Code 2004, § 58-78; Code 2015, § 16-26; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-27. Eligibility and selection of eligible households to purchase or rent affordable dwelling units.

(a) *Determination of eligibility.* Eligible households proposing to purchase or rent affordable dwelling units shall make application to the designee for determination of eligibility. In making such determination, the designee shall adhere to the rules and standards established by the Director. The owner of a development containing affordable dwelling units or any other person involved in the sale, rental or re-rental of affordable dwelling units in a development may refer households to the designee for determination of eligibility.

(b) *Certificate of qualification.* A household determined to be eligible to purchase or rent an affordable dwelling unit shall obtain a certificate of qualification from the designee, a copy of which shall be provided by the designee to the program administrator. Before issuing a certificate of qualification, the designee shall verify that all applicable eligibility rules and standards are met. It shall be a violation of this article for any person to sell or rent an affordable dwelling unit to a household that has not been issued a current certificate of qualification by the designee.

(c) *Selection of eligible households.* Upon receiving a notice of availability for sales or rental from the program administrator, the designee shall select the eligible household or households for purchase or rental of the unit or units involved in accordance with the criteria contained in the approved affordable dwelling unit plan for the site and consistent with the method of selecting eligible households established by the Director. The names of selected eligible households shall be reported to the program administrator.

(d) *Underwriting criteria.* The designee shall use standard underwriting criteria in determining that eligible households are qualified to purchase or rent affordable dwelling units.

(1) In the case of purchase, the underwriting criteria shall include an expectation that the purchase will be financed with a conventional 30-year mortgage at prevailing interest rates for borrowers with good credit, that a maximum down payment of five percent will be made by the purchaser, and that condominium and homeowners' association fees will be included in determining mortgage affordability.

(2) In the case of rental, qualification shall be determined based on a review of credit worthiness and the assumption that monthly rental payments should not exceed 35 percent of a household's gross income.

(Code 2004, § 58-79; Code 2015, § 16-27; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-28. Occupancy of affordable dwelling units.

(a) *Affidavit of domicile by purchasers of units.* Eligible household purchasers of individual affordable dwelling units shall occupy such units as their domicile, and shall provide an executed affidavit in a form prescribed and provided by the designee certifying their continuing occupancy of such units. Purchasers shall submit such affidavit to the designee on or before July 1 of each year that they own and occupy the unit. The designee shall provide a copy of the affidavit to the program administrator.

(b) *Notice of re-sale by purchasers of units.* When an affordable dwelling unit may be offered for re-sale,

the owner shall provide the program administrator with written notification that the affordable dwelling unit is being offered for sale, and no contract for sale shall be entered into until such notification is provided. The seller shall provide the program administrator with written notification upon the closing of the re-sale of such unit.

(c) *Affidavit of domicile by renters of units.* Every lease for an affordable dwelling unit shall contain a provision that renters of affordable dwelling units shall occupy such units as their domicile, and shall provide an executed affidavit in a form prescribed and provided by the designee certifying their continuing occupancy of such units. Renters of affordable dwelling units shall submit such affidavit to the owner of the property on an annual basis at least 90 days prior to expiration of the lease. Copies of the affidavit shall be provided by the owner to the program administrator and the designee.

(1) Such affidavit shall include a statement of the renter's annual household income as of the date of the affidavit, together with such other information as may be requested by the owner for the purpose of verifying that the renter continues to meet applicable income eligibility criteria.

(2) Every lease of an affordable dwelling unit shall contain a provision that if the renter of an affordable dwelling unit fails to provide such affidavit to the owner within 30 days after the required date, or if the renter's income makes them ineligible for the program, then it is a material breach of the lease and notice shall be served on the tenant as provided in Code of Virginia, § 55-248.31 advising that the rental agreement shall terminate for noncompliance. With prior approval by the program administrator, the owner may provide for substitution of an affordable dwelling unit by designating an additional comparable unit of the same dwelling unit type on the site as an affordable dwelling unit to be rented under the provision and requirements of this article, in which case such renter may continue to occupy the unit at the market rent under a new lease.

(d) *Failure of renter to occupy a rental unit.* Every lease of an affordable dwelling unit shall contain a provision that the tenant must give notice to the owner of an anticipated extended absence in excess of 60 consecutive days. Unless such absence is approved in writing by the designee, the owner may proceed in conformance with Code of Virginia, § 55-248.33.

(e) *Re-rental of affordable dwelling units in case of vacancy.* The owner shall notify the designee of any vacancy of a rental affordable dwelling unit. The designee shall select an eligible household for re-rental of the unit in accordance with the provisions of Section 16-26 and shall notify the owner and the program administrator of such selection.

(f) *Renting to non-eligible household constitutes violation.* Except as provided in subsection (c)(2) of this section, it shall be a violation of this article for any person to knowingly rent or continue to rent an affordable dwelling unit to a household that does not meet or does not continue to meet applicable income eligibility criteria.

(g) *Required lease provisions for rental units.* Rental affordable dwelling units shall be leased for a period of not less than six months and not more than one year. In addition to any other requirements developed by the program administrator and the requirements specifically set forth in this article, lease agreements for such units shall also include a prohibition against the tenant subleasing the unit.

(Code 2004, § 58-80; Code 2015, § 16-28; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-29. Price limitations.

(a) *Price limitation for affordable dwelling units for purchase.* In the case of an affordable dwelling unit for purchase, only the price of the initial sale of such unit to an owner-occupant household shall be limited by the provisions of this article, and the price of any subsequent resale of such unit shall not be limited.

(b) *Price limitation period for affordable dwelling units for rental.* In the case of an affordable dwelling unit for rental, the rental price shall be limited in accordance with the provisions of this article and the applicable rules and standards for a period of 50 years after the initial rental transaction for such unit.

(Code 2004, § 58-81; Code 2015, § 16-29; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-30. Required covenants.

(a) *Covenants applicable to affordable dwelling units for purchase.* In developments containing affordable dwelling units for purchase, affordable dwelling unit program covenants applicable to the affordable dwelling units

shall be recorded by the applicant after approval by the program administrator as to terms and the City Attorney as to legal form. The covenants shall be recorded in the land records of Richmond Circuit Court. Such covenants shall expressly provide for all of the following:

(1) The units are subject to the provisions of the affordable dwelling unit program as set forth in this article.

(2) The units are subject to the requirements set forth in Section 16-28 regarding owner-occupancy, affidavit of domicile and notice of re-sale.

(3) In the event of foreclosure by an eligible lender, the owner shall give written notice to the program administrator at least 30 days prior thereto.

(b) *Covenants applicable to affordable dwelling units for rental.* In the case of a development containing affordable dwelling units for rental, and prior to submission of the notice of availability and rental offering agreement, affordable dwelling unit program covenants applicable to the entire development shall be recorded in the land records of the Circuit Court of the City of Richmond. Such covenants shall be approved as to terms by the program administrator and approved as to legal form by the City Attorney or his designee. Such covenants shall expressly provide for all of the following:

(1) The development is subject to the provisions of the affordable dwelling unit program as set forth in this article.

(2) Identification of the particular dwelling units designated as affordable dwelling units and the means of enabling substitution of units as set forth in Section 16-28.

(3) For a period of 50 years after the date of the initial rental transaction for an affordable dwelling unit, such unit shall not be rented for an amount that exceeds the limitations established pursuant to the provisions of this article, which date shall subsequently be specified in the covenant.

(4) The covenants shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.

(5) In the event of foreclosure by an eligible lender, the owner shall give written notice to the program administrator at least 30 days prior thereto.

(Code 2004, § 58-82; Code 2015, § 16-30; Ord. No. 2008-39-59, § 2, 3-24-2008)

Sec. 16-31. Violations and penalties.

It shall be unlawful for any person to violate any section of this article. Any such violation shall be a misdemeanor punishable by a fine of up to $2,500.00.

(Code 2004, § 58-83; Code 2015, § 16-31; Ord. No. 2008-39-59, § 2, 3-24-2008)

Secs. 16-32—16-50. Reserved.

ARTICLE III. AFFORDABLE HOUSING TRUST FUND

DIVISION 1. IN GENERAL

Sec. 16-51. Created.

There shall be created a fund identified as the Affordable Housing Trust Fund. The fund shall be funded through annual appropriations made by the City Council and such other sources of revenue as the Council may appropriate thereto from time to time. The purpose of the fund shall be to aid in meeting the needs of low and moderate income households in the City by providing loans and grants to for-profit and nonprofit housing developers and organizations for the acquisition, capital and other related costs necessary for the creation of affordable rental and owner-occupied housing in the City.

(Code 2004, § 58-101; Code 2015, § 16-51; Ord. No. 2008-114-98, § 1, 5-27-2008; Ord. No. 2012-155-128, § 2, 7-23-2012)

State law reference—Creation of a community revitalization fund for the purpose of preventing neighborhood deterioration, Code of Virginia, § 15.2-958.5.

Sec. 16-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affordable housing means housing that a household can afford without paying more than 30 percent of income for rent or 35 percent of income for mortgage payments.

Affordable Housing Trust Fund or *fund* means a community revitalization fund created by Section 16-51 pursuant to authority granted by Code of Virginia, § 15.2-958.5.

Area median income means the median income determined annually for the Richmond-Petersburg Metropolitan Statistical Area by the United States Department of Housing and Urban Development.

Construction-related activities means any of the following:

(1) Predevelopment activities, including, but not limited to, architectural services, engineering services, attorney's fees, appraisals and title reports.

(2) On-site construction activities involving the building, altering, repairing, improving or demolishing of any structure or building on real property.

Housing-related support services means any of the following:

(1) Homeownership counseling services, including, but not limited to, money management counseling, credit counseling, voucher holder training, pre-ownership training and post-ownership training.

(2) Down payment assistance.

(3) Landlord training for landlords that rent to low and moderate income households.

(4) Mortgage default assistance and counseling.

Low and moderate income means gross household income adjusted for family size that is at or below 80 percent of area median income.

Recipient means a legal entity who receives one or more grants or loans from the fund under the provisions of this article.

(Code 2004, § 58-102; Code 2015, § 16-52; Ord. No. 2008-114-98, § 1, 5-27-2008; Ord. No. 2012-155-128, § 2, 7-23-2012)

Cross reference—Definitions generally, § 1-2.

Sec. 16-53. Purpose.

The purpose of all expenditures from the fund shall be to accomplish the following goals:

(1) Promote the development of mixed-income neighborhoods in the City.

(2) Provide funding for the rehabilitation of vacant buildings for residential purposes or the rehabilitation of residential properties in communities with high foreclosure rates or blighted properties, including owner-occupied blighted properties.

(3) Support the productive reuse of properties declared surplus by the City for residential purposes.

(4) Implement universal design principles and accessibility for disabled persons.

(5) Provide for the Chief Administrative Officer or the designee thereof to administer the fund and the programs for which the fund pays.

(6) Leverage funds from other sources to accomplish all of the purposes set forth in this section.

(Code 2004, § 58-103; Code 2015, § 16-53; Ord. No. 2008-114-98, § 1, 5-27-2008; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2012-155-128, § 2, 7-23-2012)

Secs. 16-54—16-79. Reserved.

DIVISION 2. AFFORDABLE HOUSING TRUST FUND OVERSIGHT BOARD*

***Cross reference—**Boards, commissions, committees and other agencies, § 2-767 et seq.

Sec. 16-80. Created.

There is hereby created a board of the City of Richmond with indefinite duration to be known as the Affordable Housing Trust Fund Oversight Board, for the purpose of overseeing the administration of the Affordable Housing Trust Fund established by Section 16-51 and the programs for which the fund provides. For purposes of Section 2-773, the Board shall be classified as supervisory.

(Code 2004, § 58-111; Code 2015, § 16-80; Ord. No. 2014-167-160, § 1, 10-13-2014)

Sec. 16-81. Composition; appointment; terms of office.

(a) *Composition.* The Board shall consist of ten members, each of whom shall either reside in the City of Richmond or have a principal place of employment within the City of Richmond. One member shall be selected from each of the following categories:

(1) A representative from Richmonders Involved to Strengthen our Communities.

(2) A resident of the City of Richmond or a representative of a service provider assisting low-income individuals or families.

(3) A representative from the Richmond Association of Realtors.

(4) A representative from an organization dedicated to promoting affordable housing.

(5) A lender from a financial institution with affordable housing financing experience.

(6) A builder or developer with experience constructing housing projects.

(7) A representative of the Richmond Redevelopment Housing Authority.

(8) An attorney specializing in housing matters.

(9) A housing counselor.

(10) A member of the City Council, who shall be a non-voting member of the Board.

(b) *Appointment.* Of the ten members, the City Council shall appoint six members, including the members designated in subsections (a)(1) through (4), (9) and (10) of this section, and the Mayor, by a writing submitted to the City Clerk, shall appoint four members, including the members designated in subsections (a)(5) through (8) of this section. All appointments shall otherwise be governed by Sections 2-767 and 2-768.

(c) *Terms of office.* Each member shall be appointed for a term of three years, except for the initial members, of whom one member appointed by the City Council and one member appointed by the Mayor shall be appointed to one-year terms, two members appointed by the City Council and one member appointed by the Mayor shall be appointed to two-year terms, and two members appointed by the City Council and two members appointed by the Mayor shall be appointed to three-year terms, to facilitate the staggering of member terms. The member of the City Council shall be appointed by resolution of the City Council in the same manner as appointments to standing committees of the City Council and shall be made for a term that shall expire as provided in such resolution. Any member may be appointed to a third term after one year from the date of the last day of such member's second full term.

(Code 2004, § 58-112; Code 2015, § 16-81; Ord. No. 2014-167-160, § 1, 10-13-2014)

Sec. 16-82. Prohibition on award of grants or loans where Board members involved.

No grants or loans from the Affordable Housing Trust Fund shall be awarded to persons serving on the Board or to other legal entities of which such person is a member or in which such a person has a personal interest as the State and Local Government Conflict of Interests Act defines that term.

(Code 2004, § 58-113; Code 2015, § 16-82; Ord. No. 2014-167-160, § 1, 10-13-2014)

Sec. 16-83. Duties.

The Board shall perform the following duties:

(1) Review proposed amendments to the regulations, operational policies and procedures provided for in Section 16-114, and submit to the City Council and the Mayor a report containing the Board's advice and recommendations concerning the appropriateness of the amendments to such regulations, operational

policies and procedures with respect to the following:

a. The ways in which the City may ensure the sustainability and proper use of the fund over time and any conditions under which the Council should establish an Oversight Board or Board of Trustees to oversee the fund.

b. Potential dedicated revenue sources for the fund.

c. The ratio of grants to loans to be disbursed from the fund.

d. In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage recipients of disbursements from the fund to employ individuals of low and moderate income households in the projects for which funds are expended in accordance with the purposes of the fund.

e. In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage minority business enterprises, as defined in Chapter 21, to participate in the City's efforts to accomplish the purposes set forth in Section 16-51.

f. Any other factors or considerations, as the Board may identify, affecting the City's ability to achieve the purposes of the fund.

(2) Review and approve annual program allocations within the Affordable Housing Trust Fund as proposed by departments of the City and receive staff recommendations for projects to be funded by the Affordable Housing Trust Fund.

(Code 2004, § 58-114; Code 2015, § 16-83; Ord. No. 2014-167-160, § 1, 10-13-2014)

Sec. 16-84. Conduct of affairs.

(a) *Quorum.* Six members of the Board shall constitute a quorum.

(b) *Officers.* The member of the City Council appointed to the Board shall serve as Chairperson of the Board and shall ensure that the City Council is regularly informed about Board activities, that the Board meets regularly in accordance with this division and that the duties of the Board are performed. The Board may select from among its membership such other officers as the Board deems necessary to discharge its duties.

(c) *Meetings.* The Board shall meet at least quarterly and as often as it deems necessary in order to perform the duties provided for in this division.

(d) *Reporting.* On an annual basis, the Board shall deliver to the City Council and the Mayor a brief summary of the Board's activities for the preceding year.

(e) *Freedom of Information*. Board meetings and records shall be subject to the provisions of the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

(f) *Procedures.* The Board may adopt bylaws or rules of procedure not inconsistent with this division to govern the conduct of its meetings and operations.

(g) *Staff and resources.* The Council Chief of Staff and the Department of Housing and Community Development shall provide such staff and resources as may be necessary to assist the Board in the duties imposed by this division.

(Code 2004, § 58-115; Code 2015, § 16-84; Ord. No. 2014-167-160, § 1, 10-13-2014; Ord. No. 2018-078, § 1, 5-14-2018)

Secs. 16-85—16-111. Reserved.

DIVISION 3. PROGRAM ADMINISTRATION

Sec. 16-112. Eligibility criteria.

An application for a loan or grant from the fund must show a direct relationship to one or more of the following:

(1) The provision of housing to low and moderate income households.

(2) Construction-related activities for construction producing units for sale or rent to low and moderate

income households.

(3) Housing-related support services provided to low and moderate income households.

(4) Compliance with all applicable laws.

(5) The applicant's ability to leverage funds from other sources.

(Code 2004, § 58-121; Code 2015, § 16-112; Ord. No. 2008-114-98, § 1, 5-27-2008; Ord. No. 2012-155-128, § 2, 7-23-2012)

Sec. 16-113. Administration—Generally.

The Chief Administrative Officer or the designee thereof shall administer the fund and, in accordance with all applicable laws and regulations, may contract with a service provider for a cost that shall remain within a standard percentage, as the Chief Administrative Officer or the designee thereof shall determine, of the balance of the fund. The Chief Administrative Officer or the designee thereof shall evaluate loan and grant applications in accordance with the provisions of this article. In addition, the Chief Administrative Officer or the designee thereof shall evaluate each application for grants or loans from the fund based upon the eligibility criteria set forth in Section 16-112 and the purposes of the fund set forth in Section 16-53 and make semiannual reports to the City Council and the Mayor concerning the results of each grant or loan evaluation.

(Code 2004, § 58-122; Code 2015, § 16-113; Ord. No. 2008-114-98, § 1, 5-27-2008; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2012-155-128, § 2, 7-23-2012)

Sec. 16-114. Administration—Regulations.

The Chief Administrative Officer or the designee thereof shall prepare regulations, operational policies and procedures suitable to the Mayor and approved by the City Attorney or the designee thereof as to form and legality to implement the programs for which the fund pays and shall submit such regulations, operational policies and procedures to the Affordable Housing Trust Fund Advisory Board established by Ordinance No. 2012-155-128, adopted July 23, 2012, for advice. After the Board has provided the Council and the Mayor with advice concerning such regulations, operational policies and procedures, the Mayor shall propose a resolution for the consideration of the Council to approve the regulations, operational policies and procedures to implement the programs for which the fund pays. These regulations, operational policies and procedures shall become effective upon the adoption of such resolution. The Chief Administrative Officer or the designee thereof may amend such regulations, operational policies and procedures from time to time, as the Chief Administrative Officer or the designee thereof may deem necessary. The regulations, operational policies and procedures, and any amendments thereto, established pursuant to this section shall be subject to the review and approval of the City Attorney or the designee thereof as to form and legality and provide, at a minimum, the following:

(1) Grants and loans from the fund shall be awarded based on a fixed application process designed to determine qualification under the eligibility criteria set forth in Section 16-112.

(2) Recipients shall meet minimum qualifications determined by the Chief Administrative Officer or the designee thereof.

(3) Development, sales, rental, maintenance and management agreements, whenever applicable, shall accompany grants or loans made from the fund for each project involving construction or rehabilitation of affordable housing to ensure compliance with the program requirements applicable to the fund.

(4) The Chief Administrative Officer or the designee thereof shall regularly monitor recipients to ensure compliance with the program requirements applicable to the fund.

(5) Penalties as defined by the Chief Administrative Officer or the designee thereof in accordance with this article shall apply when the City finds that recipients are not in compliance with the program requirements.

(6) The Chief Administrative Officer or the designee thereof shall ensure that at least 30 percent of the fund is used only for the construction or rehabilitation of housing, or housing-related support services, for households with a gross household income, adjusted for family size, that is no greater than 30 percent of area median income.

(7) The ways in which the City may ensure the sustainability and proper use of the fund over time and any

conditions under which the Council should establish an Oversight Board or Board of Trustees to administer the fund.

(8) The ratio of grants to loans to be disbursed from the fund.

(9) In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage recipients of disbursements from the fund to employ individuals of low and moderate income households in the projects for which funds are expended in accordance with the purposes of the fund.

(10) In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage minority business enterprises, as defined in Chapter 21, to participate in the City's efforts to accomplish the purposes set forth in Section 16-51.

(Code 2004, § 58-123; Code 2015, § 16-114; Ord. No. 2008-114-98, § 1, 5-27-2008; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2012-155-128, § 2, 7-23-2012; Ord. No. 2016-255, § 1, 11-14-2016)

Chapter 17

HUMAN RIGHTS*

***Cross reference**—Office of Minority Business Development, § 2-647 et seq.; Minority Business Enterprise and Emerging Small Business Advisory Board, § 2-822 et seq.; Human Rights Commission, § 2-1171 et seq.; development assistance to minority business enterprises and emerging small businesses, § 21-194 et seq.; utilization of minority business enterprises and emerging small businesses, § 21-216 et seq.

ARTICLE I. IN GENERAL

Sec. 17-1. Declaration of policy.

In accordance with Code of Virginia, § 2.2-3900(B), it is the policy of the City of Richmond to:

(1) Safeguard all individuals within the City from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, transgender status, or gender identity, in places of public accommodation, including educational institutions and in real estate transactions; in employment; preserve the public safety, health and general welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and

(2) Protect citizens of the City against unfounded charges of unlawful discrimination.

(Code 2015, § 17-1; Ord. No. 2018-044, § 2, 6-11-2018)

Sec. 17-2. Unlawful discriminatory practice defined.

Conduct that violates any provision of this Code or any Virginia or Federal statute or regulation governing discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, transgender status, or gender identity shall be an unlawful discriminatory practice for the purposes of this article.

(Code 2015, § 17-2; Ord. No. 2018-044, § 2, 6-11-2018)

Sec. 17-3. Complaints.

Complaints filed with the Human Rights Commission alleging an unlawful discriminatory practice under a City ordinance that is enforced by a City agency shall be referred to that agency. The Commission may investigate complaints alleging an unlawful discriminatory practice under a State or Federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the State or Federal agency with jurisdiction over the complaint. Upon such referral, the Commission shall have no further jurisdiction over the complaint.

(Code 2015, § 17-3; Ord. No. 2018-044, § 2, 6-11-2018)

Secs. 17-4—17-18. Reserved.

ARTICLE II. FAIR HOUSING*

***State law reference**—Fair housing law, Code of Virginia, § 36-96.1 et seq.

Sec. 17-19. Declaration of policy.

It is the policy of the City to provide for fair housing throughout the City, to all its citizens, regardless of race, color, religion, national origin, sex, age, marital status, presence of children in the family or disability, and to that end, to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity and general welfare of all the inhabitants of the City may be protected and ensured. To this end, the City encourages the enforcement, by both public and private agencies, of laws prohibiting discriminatory practices as defined in this article. This article shall be deemed an exercise of the police power of the State for the protection of the people of the State as granted to and conferred upon the City.

(Code 1993, § 16-91(a); Code 2004, § 58-31; Code 2015, § 17-19)

State law reference—Similar provisions, Code of Virginia, § 36-96.1.

Sec. 17-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Age means an individual who has attained the individual's 55th birthday.

Disability means, with respect to a person:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment.

The term does not include current, illegal use of or addiction to a controlled substance as defined in State or Federal law.

Discriminatory housing practices means an act that is unlawful under Section 17-21 or 17-22.

Dwelling means any building, structure, or portion thereof which is occupied as or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with a parent or other person having legal custody of such individual, or the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this definition, the phrase "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

Family includes a single individual, whether male or female.

Person includes one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Restrictive covenants means any specification limiting the transfer, rental, or lease of any dwelling because of race, color, religion, national origin, familial status, sex, marital status, presence of children in a family, disability or age.

Source of funds means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

To rent includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(Code 1993, § 16-91(b); Code 2004, § 58-32; Code 2015, § 17-20)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 36-96.1:1.

Sec. 17-21. Unlawful discriminatory housing practices.

(a) It shall be an unlawful discriminatory housing practice for any person to:

(1) Refuse to sell or rent after the making of a bona fide offer or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity; or status as a veteran;

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, sexual orientation, gender identity; or status as a veteran;

(3) Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this article that shall not be overcome by a general disclaimer. However, reference alone to places of worship, including churches, synagogues, temples, or mosques, in any such notice, statement, or advertisement shall not be prima facie evidence of an illegal preference;

(4) Represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) Deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability;

(6) Include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability or for any person to honor or exercise, or attempt to honor or exercise, any such discriminatory covenant pertaining to housing;

(7) Induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability;

(8) Refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with the buyer or renter; or

(9) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of a disability of (i) that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented, or made available; or (iii) any person associated with that buyer or renter.

(b) For the purposes of this section, discrimination includes (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

(1) The public use and common use areas of the dwellings are readily accessible to and usable by disabled persons;

(2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(3) All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision, the term "covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(c) Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements of subdivision (b)(3).

(d) Nothing in this article shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this article.

(Code 1993, §§ 16-92, 16-93; Code 2004, § 58-33; Code 2015, § 17-21)

State law reference—Similar provisions, Code of Virginia, § 36-96.3.

Sec. 17-22. Discrimination in residential real estate-related transactions.

(a) It shall be unlawful for any person, including any lending institution, whose business includes engaging in residential real estate-related transactions, to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, age, familial status, or disability. It shall not be unlawful, however, for any person whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan for which such person is making application.

(b) As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

b. Secured by residential real estate; or

(2) The selling, brokering, insuring or appraising of residential real property. However, nothing in this article shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, age, familial status, or disability.

(c) It shall be unlawful for any State, County, City, or Municipal treasurer or governmental official whose responsibility it is to account for, to invest, or manage public funds to deposit or cause to be deposited any public funds in any lending institution provided for in this section which is found to be committing discriminatory practices, where such findings were upheld by any court of competent jurisdiction. Upon such a court's judicial enforcement of any order to restrain a practice of such lending institution or for such institution to cease or desist in a discriminatory practice, the appropriate fiscal officer or treasurer of the City or any political subdivision thereof which has funds deposited in any lending institution which is practicing discrimination, as set forth in this section, shall take immediate steps to have the funds withdrawn and redeposited in another lending institution. If for reasons of sound economic management this action will result in a financial loss to the City, the action may be deferred for a period not longer than one year. If the lending institution in question has corrected its discriminatory practices, any prohibition set forth in this section shall not apply.

(Code 1993, § 16-94; Code 2004, § 58-34; Code 2015, § 17-22)

State law reference—Similar provisions, Code of Virginia, § 36-96.4.

Sec. 17-23. Interference with enjoyment of rights of others under article.

It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of or on account of such person's having exercised or enjoyed or on the account of such person's having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article.

(Code 1993, § 16-97; Code 2004, § 58-35; Code 2015, § 17-23)

State law reference—Similar provisions, Code of Virginia, § 36-96.5.

Sec. 17-24. Certain restrictive covenants void; instruments containing such covenants.

(a) Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, age, familial status, or disability, whether included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of this Commonwealth.

(b) Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the document if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

(c) No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection (a) of this section. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received or $500.00, plus reasonable attorney's fees and costs incurred.

(d) A family care home, foster home, or group home in which individuals with physical disabilities, mental illness, intellectual disability, or developmental disability reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single family or to residential use or structure.

(Code 1993, § 16-95; Code 2004, § 58-36; Code 2015, § 17-24)

State law reference—Similar provisions, Code of Virginia, § 36-96.6.

Sec. 17-25. Familial status protection not applicable to housing for older persons.

(a) As used in this section, the term "housing for older persons" means housing:

(1) Provided under any State or Federal program that is specifically designed and operated to assist elderly persons, as defined in the State or Federal program;

(2) Intended for and solely occupied by persons 62 years of age or older; or

(3) Intended for and solely occupied by at least one person 55 years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under this subsection (a)(3):

a. At least 80 percent of the occupied units are occupied by at least one person 55 years of age or older per unit; and

b. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(b) Nothing in this article regarding unlawful discrimination because of familial status shall apply to housing for older persons.

(c) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections (a)(2) and (a)(3) of this section, provided that new occupants of such housing meet the age requirements of those subsections; or

(2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the

requirements of subsections (a)(2) and (a)(3) of this section.

(Code 2004, § 58-37; Code 2015, § 17-25)

State law reference—Similar provisions, Code of Virginia, § 36-96.7.

Sec. 17-26. Exemptions.

(a) Except as provided in Section 17-21(a)(3) and Section 17-24(a) through (c), this article shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this article only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this article. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title. This exemption shall not apply to or inure to the benefit of any licensee of the Real Estate Board or regulant of the Fair Housing Board, regardless of whether the licensee is acting in his personal or professional capacity.

(b) Except for Section 17-21(a)(3), this article shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) Nothing in this article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, sexual orientation, gender identity, status as a veteran, or disability. Nor shall anything in this article apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this article be construed to prohibit any private, State-owned, or State-supported educational institution, hospital, nursing home, or religious or correctional institution from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

(d) Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Federal law.

(e) It shall not be unlawful under this article for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.

(f) A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that the applicant consent in writing to a criminal record check to verify the disclosures made by the applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this article shall require an owner or managing agent to rent a dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.

(g) Nothing in this article limits the applicability of any reasonable local, State or Federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, State or Federal restrictions. Nothing in this article prohibits the rental application or similar document from requiring information concerning the number, ages, sex and familial relationship of the applicants and the dwelling's intended occupants.

(h) Nothing in this article shall prohibit a landlord from considering evidence of an applicant's status as a victim of family abuse, as defined in Code of Virginia, § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's application pursuant to Code of Virginia, § 55.1-1203(D).

(i) Nothing in this article shall prohibit an owner or an owner's managing agent from denying or limiting the rental or occupancy of a rental dwelling unit to a person because of such person's source of funds, provided that such owner does not own more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice. However, if an owner, whether individually or through a business entity, owns more than a ten percent interest in more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice, the exemption provided in this subsection shall not apply.

(j) It shall not be unlawful under this article for an owner or an owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on the person's source of funds for that unit if such source is not approved within 15 days of the person's submission of the request for tenancy approval.

(Code 1993, § 16-96; Code 2004, § 58-38; Code 2015, § 17-26)

State law reference—Similar provisions, Code of Virginia, § 36-96.2.

Sec. 17-27. Persons adversely affected; filing of civil action or complaint.

Any person adversely affected by the use of a discriminatory practice prohibited under this article may:

(1) Institute an action for injunctive relief and money damages against the person responsible for such discriminatory practice in the Circuit Court of the City. If the court finds that the defendant was responsible for such a practice and that the plaintiff was adversely affected thereby, it shall enjoin the defendant from use of such practice and in its discretion award the plaintiff actual damages with court costs and reasonable attorney's fees.

(2) File a complaint with the Office of Human Services Advocacy. Such a complaint, which shall be in writing and verified by the complainant, shall state the name and address of the complainant and of the person against whom the complaint is made and shall also state the alleged facts surrounding the alleged unlawful housing practice. Such complaint shall be filed within 180 days of the alleged unlawful housing practice.

(Code 1993, § 16-98; Code 2004, § 58-39; Code 2015, § 17-27)

Sec. 17-28. Procedure upon filing of complaint.

(a) Upon the filing of a complaint pursuant to Section 17-27, the Office of Human Services Advocacy shall determine whether there is probable cause to believe that a violation of this article has occurred. If it is determined that no probable cause exists to believe that a violation of this article has occurred, the complaint shall be dismissed. If it is determined that there is probable cause to believe that a violation of this article has occurred, the Office of Human Services Advocacy shall attempt to resolve the complaint by conciliation.

(b) If attempts at conciliation are unsuccessful, the Office of Human Services Advocacy shall, upon the request of the complainant, forward the complaint to the Chief Administrative Officer or his designee. If the Chief Administrative Officer or his designee, following such hearing as it deems appropriate and after giving the person charged with engaging or with having engaged in the unlawful housing practice an opportunity to present such evidence or argument to the Chief Administrative Officer or his designee as such person deems appropriate, determines that there has been a violation of this article, he may issue a cease and desist order, which shall state the nature of the violation and give the person who is in violation a reasonable period of time to take corrective action to remedy such violation. If there is noncompliance with such order, the City Attorney or the complainant may seek

to have such order enforced by filing an action in the Circuit Court for the City.

(Code 1993, § 16-99; Code 2004, § 58-40; Code 2015, § 17-28; Ord. No. 2006-90-93, § 4, 4-24-2006)

Sec. 17-29. Additional authority.

In addition to the complaint procedure set forth in Sections 17-27 and 17-28, the Office of Human Services Advocacy or the Chief Administrative Officer or his designee may, on its, his or her own initiative, proceed to take appropriate steps to remedy unlawful housing practices as described in this article.

(Code 1993, § 16-100; Code 2004, § 58-41; Code 2015, § 17-29; Ord. No. 2006-90-93, § 4, 4-24-2006)

Sec. 17-30. Burden of proof.

In any action brought pursuant to this article, the burden of proof shall be on the complainant.

(Code 1993, § 16-101; Code 2004, § 58-42; Code 2015, § 17-30)

Chapter 18

LIBRARIES*

***Charter reference**—Authority of City to support public libraries, § 2.02(f).

Cross reference—Administration, Ch. 2; City-owned real estate, Ch. 8.

State law reference—Libraries generally, Code of Virginia, § 42.1-1 et seq.; local libraries, Code of Virginia, § 42.1-33 et seq.

ARTICLE I. IN GENERAL

Sec. 18-1. Public library created.

There is created the Richmond Public Library, which may be referred to in this chapter as the "public library."

(Code 2004, § 62-1; Code 2015, § 18-1)

Sec. 18-2. Disposition of money received; approval and payment of vouchers and bills.

All money received on account of or for the public library shall be paid into the City treasury at such times as shall be prescribed by the Director of Finance. All vouchers and bills for the maintenance and operation of the public library shall be approved by the Library Director or by such assistant as shall be designated by the Library Board to act for the Library Director during the Library Director's absence or disability. No such voucher or bill shall be paid by the Director of Finance unless the voucher or bill has been so approved and certified by the Library Director or such assistant.

(Code 1993, § 17-1; Code 2004, § 62-2; Code 2015, § 18-2; Ord. No. 2005-290-247, § 1, 11-14-2005)

Sec. 18-3. Injuring, defacing or destroying library property.

No person shall willfully, maliciously or wantonly write upon, injure, deface, tear, cut, mutilate or destroy any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, manuscript, record or other library property belonging to or in the custody of the public library or any branch thereof.

(Code 1993, § 17-2; Code 2004, § 62-3; Code 2015, § 18-3)

Cross reference—Offenses against property, § 19-77 et seq.

State law reference—Damaging property generally, Code of Virginia, §§ 18.2-137, 42.1-72.

Sec. 18-4. Unauthorized removal of books and other property.

No person shall willfully or without authority remove any books or other property from the public library or any branch thereof.

(Code 1993, § 17-3; Code 2004, § 62-4; Code 2015, § 18-4)

State law reference—Taking property generally, Code of Virginia, §§ 18.2-137, 42.1-73.

Sec. 18-5. Failure to return overdue books or other property after notice; lost or destroyed books or other property.

It shall be unlawful for any person, having lawfully removed a book or other property from the public library or any branch thereof, to fail to return any overdue book or other property within 30 days after receiving notice to do so from the Library Director or a designated representative. However, if an overdue book or other property has been lost or destroyed, the person receiving notice to return the book or other property shall, within 30 days after receipt of such notice, make arrangements satisfactory to the Library Director for payment of the cost of replacing the book or other property and shall make payment in accordance with such arrangements. Failure to return the overdue book or other property or to pay the replacement cost shall constitute a Class 4 misdemeanor.

(Code 1993, § 17-4; Code 2004, § 62-5; Code 2015, § 18-5; Ord. No. 2005-290-247, § 1, 11-14-2005)

State law reference—Similar provisions, Code of Virginia, § 42.1-74.

Secs. 18-6—18-28. Reserved.

ARTICLE II. PUBLIC LIBRARY BOARD*

***Cross reference**—Boards, commissions, committees and other agencies, § 2-767 et seq.

State law reference—Library Board generally, Code of Virginia, § 42.1-35.

Sec. 18-29. Created; authority.

The public library of the City, its branches and substations shall be under the control and management of a Board of Trustees, which is hereby created, to be known as the Richmond Public Library Board.

(Code 1993, § 17-16; Code 2004, § 62-36; Code 2015, § 18-29)

Sec. 18-30. Composition; appointment and term of members.

The Library Board shall consist of nine members who shall be qualified voters of the City appointed by the City Council for terms of four years, commencing July 1 of the year of appointment.

(Code 1993, § 17-17; Code 2004, § 62-37; Code 2015, § 18-30; Ord. No. 2004-2-13, § 1, 2-9-2004)

State law reference—Term of office, Code of Virginia, § 42.1-35.

Sec. 18-31. Organization; officers.

The members of the Public Library Board, immediately after their appointment, shall meet and organize and shall elect from their number a Chairperson, a Vice-Chairperson and such other officers as they may deem necessary.

(Code 1993, § 17-18; Code 2004, § 62-38; Code 2015, § 18-31)

Sec. 18-32. Quorum.

Five members of the Public Library Board shall constitute a quorum for the transaction of business.

(Code 1993, § 17-19; Code 2004, § 62-39; Code 2015, § 18-32)

Sec. 18-33. Vacancies.

If a vacancy occurs in the membership of the Public Library Board, whether caused by death, resignation or otherwise, the City Council shall appoint a successor to serve for the remainder of the unexpired term of the member whose office is so vacated.

(Code 1993, § 17-20; Code 2004, § 62-40)

State law reference—Similar provisions, Code of Virginia, § 42.1-35.

Sec. 18-34. Ineligibility for membership.

No officer or employee of the City government shall be eligible for membership on the Public Library Board, except as provided in this article.

(Code 1993, § 17-21; Code 2004, § 62-41; Code 2015, § 18-34)

Sec. 18-35. Removal of members; compensation.

(a) The City Council, in its discretion, shall have power and authority to remove any member of the Public Library Board for misconduct or neglect of duty.

(b) The members of the Board whose appointment is provided for in this article shall serve as such members without compensation.

(Code 1993, § 17-22; Code 2004, § 62-42; Code 2015, § 18-35)

Sec. 18-36. Powers and duties generally.

(a) The Public Library Board shall make and adopt such bylaws, rules and regulations for its guidance and for the management and control of the public library, its branches and substations as may be deemed necessary and expedient. The Library Board shall have exclusive control of the expenditure of all money appropriated for the

erection and maintenance of such library system and may, subject to the approval of the City Council, select a site and purchase, transfer, exchange or lease real and personal property for use in and in connection with the public library, its branches and substations and shall, in addition, have the care and custody of the grounds, buildings or rooms constructed, leased or set apart for such purposes.

(b) The Board may, as authorized in Code of Virginia, § 42.1-35, accept donations and bequests of money, personal property and real estate and have exclusive control of the expenditure of such money and the use of such personal property and real estate.

(Code 1993, § 17-23; Code 2004, § 62-43; Code 2015, § 18-36)

Sec. 18-37. Preparation of forms for transaction of business; records.

The Public Library Board shall, with the approval of the Director of Finance, prepare the necessary blank forms for requisitions, warrants, vouchers, receipts and such other business as such Board may transact, and shall also keep suitable records of its financial and other business transactions, which records shall be subject at all times to examination or inspection by the Director of Finance or other person designated by the Director.

(Code 1993, § 17-24; Code 2004, § 62-44; Code 2015, § 18-37)

Sec. 18-38. Agreements providing for expenditure of Federal and matching funds.

The Public Library Board is authorized to enter into agreements with the State Library Board providing for the supervision of the expenditure of Federal funds allocated to cities and matching funds required to be provided by cities, as authorized by Code of Virginia, § 42.1-58, upon and subject to the following terms and conditions:

(1) Such agreement shall set forth the standards and conditions with respect to the expenditure of funds.

(2) No such agreement shall be entered into unless funds required to be provided by the City or Library Board have been appropriated by the Council for the purpose.

(3) No such agreement shall contain any provision which exceeds or conflicts with any authority or power conferred by the Charter or general law upon the City or the City Council or upon the Library Board by ordinance or resolution or which delegates the exercise of any such authority or power.

(Code 1993, § 17-25; Code 2004, § 62-45; Code 2015, § 18-38)

Secs. 18-39—18-64. Reserved.

ARTICLE III. LIBRARY DIRECTOR*

***Cross reference**—Officers and employees, § 2-57 et seq.

Sec. 18-65. Appointment.

There shall be a Library Director appointed by the Public Library Board to serve at the pleasure of the Library Board for an indefinite term.

(Code 2004, § 62-81; Code 2015, § 18-65; Ord. No. 2005-290-247, § 1, 11-14-2005)

Sec. 18-66. Ex Officio Secretary of Library Board; records; oath.

(a) The Library Director shall be Ex Officio Secretary of the Public Library Board and shall be responsible to the Board for the custody and safekeeping of the records and proceedings of the Board and such other records as may be committed to the custody of the Library Director by the Library Board.

(b) Before entering upon the discharge of the duties of Library Director, the Library Director shall take the oath of office for the faithful performance of all duties as such.

(Code 1993, § 17-36; Code 2004, § 62-82; Code 2015, § 18-66; Ord. No. 2005-290-247, § 1, 11-14-2005)

Sec. 18-67. Reports; additional duties.

The Library Director shall, as soon as practicable after the end of the fiscal year, make a detailed report to the Public Library Board, which report, together with the report of such Public Library Board, shall be forwarded to the Chief Administrative Officer and shall be printed and distributed along with other annual reports of the various

City departments. The cost of such printing, as well as the printing of necessary bulletins, catalogues and other papers to be determined by the Public Library Board, shall be considered as a proper charge against the maintenance of the public library. The Library Director may perform such other duties in connection with the administration of the library as may be assigned by the Public Library Board.

(Code 1993, § 17-37; Code 2004, § 62-83; Code 2015, § 18-67; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-290-247, § 1, 11-14-2005)

Chapter 19

OFFENSES AND MISCELLANEOUS PROVISIONS*

***State law reference**—Crimes and offenses generally, Code of Virginia, § 18.2-1 et seq.

ARTICLE I. IN GENERAL

Sec. 19-1. Expectorating in public places.

(a) No person shall spit, expectorate, or deposit any sputum, saliva, mucus, or any form of saliva or sputum upon:

(1) The floor;

(2) A stairway;

(3) Any part of any public building or place where the public assembles;

(4) The floor of any part of any public conveyance; or

(5) Any sidewalk abutting on any public street, alley or lane of the City.

(b) Any person violating this section shall be guilty of a Class 4 misdemeanor.

(Code 1993, § 20-1; Code 2004, § 66-1; Code 2015, § 19-1)

Cross reference—Streets, sidewalks and public ways, Ch. 24.

State law reference—Similar provisions, Code of Virginia, § 18.2-322.

Sec. 19-2. Scalping of tickets to public events.

(a) It is unlawful for any person to resell for profit any ticket for admission to any sporting event, theatrical production, lecture, motion picture or any other event open to the public for which tickets are ordinarily sold, except for religious, charitable or educational organizations where all or a portion of the admission price reverts to the sponsoring group and the resale for profit of such ticket is authorized by the sponsor of the event and the manager or owner of the facility in which the event is being held. This section shall not apply to any resale of a ticket that occurs on the Internet.

(b) Any person violating subsection (a) of this section shall be guilty of a Class 3 misdemeanor.

(Code 1993, § 20-2; Code 2004, § 66-2; Code 2015, § 19-2)

State law reference—Authority to adopt, Code of Virginia, § 15.2-969.

Sec. 19-3. Possession of open alcoholic beverage containers in public parks, playgrounds and streets.

(a) It shall be unlawful for any person, while in a public park, playground or street, to have in such person's possession an open alcoholic beverage container.

(b) This section shall not prevent any person from possessing an open alcoholic beverage container or from drinking alcoholic beverages or offering a drink thereof to another at an event held within an approved area in any public park or other public place for which a proper City permit and State Alcoholic Beverage Control Board license have been obtained.

(c) Any person violating this section shall be guilty of a Class 4 misdemeanor.

(Code 1993, § 20-3; Code 2004, § 66-3; Code 2015, § 19-3)

Cross reference—City-owned real estate, Ch. 8; use of public grounds, parks, playfields and playgrounds, § 8-264 et seq.; streets, sidewalks and public ways, Ch. 24.

State law reference—Drinking in public, Code of Virginia, §§ 4.1-308, 4.1-309; public intoxication, Code of Virginia, § 18.2-388.

Sec. 19-4. Drinking alcoholic beverages or offering to another in public places.

(a) For purposes of this section, the term "public place" shall mean any place, building or conveyance to which the public has or is permitted to have access, including restaurants, soda fountains, hotel dining areas, lobbies, and corridors of hotels, and any highway, street, lane, park, or place of public resort or amusement. The term shall not include:

(1) Hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization;

(2) Restaurants licensed by the State Alcoholic Beverage Control Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility;

(3) Offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or

(4) Private recreational or chartered boats which are not licensed by the State Alcoholic Beverage Control Board and on which alcoholic beverages are not sold.

(b) It shall be unlawful for any person to take a drink of any alcoholic beverage or to offer a drink thereof to another, whether accepted or not, at or in any public place.

(c) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the State Alcoholic Beverage Control Board in a licensed establishment, provided such establishment or the person who operates the establishment is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

(d) Any person convicted of a violation of this section shall be guilty of a Class 4 misdemeanor.

(Code 1993, § 20-4; Code 2004, § 66-4; Code 2015, § 19-4)

Cross reference—City-owned real estate, Ch. 8; use of public grounds, parks, playfields and playgrounds, § 8-264 et seq.; streets, sidewalks and public ways, Ch. 24.

State law reference—Similar provisions, Code of Virginia, § 4.1-308.

Sec. 19-5. Drinking or possessing alcoholic beverages in or upon public school grounds.

(a) It shall be unlawful for any person to possess or drink any alcoholic beverage in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

(b) No person shall drink and no organization shall serve any alcoholic beverage in or upon the grounds of any public elementary or secondary school after school hours or school or student activities, except for religious congregations using wine for sacramental purposes only.

(c) Any person convicted of a violation of this section shall be guilty of a Class 2 misdemeanor.

(Code 1993, § 20-5; Code 2004, § 66-5; Code 2015, § 19-5)

State law reference—Similar provisions, Code of Virginia, § 4.1-309.

Secs. 19-6—19-28. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC ADMINISTRATION*

***Cross reference**—Administration, Ch. 2.

State law reference—Crimes against the administration of justice, Code of Virginia, § 18.2-434 et seq.

Sec. 19-29. Refusal to aid officer in execution of the officer's duties.

If any person, on being required by any officer, refuses or neglects to assist the officer:

(1) In the execution of the officer's duties in a criminal case;

(2) In the preservation of the peace;

(3) In the apprehending or securing of any person for a breach of the peace; or

(4) In any case of escape or rescue;

such person shall be guilty of a Class 2 misdemeanor.

(Code 1993, § 20-17; Code 2004, § 66-36; Code 2015, § 19-29)

State law reference—Similar provisions, Code of Virginia, § 18.2-463.

Sec. 19-30. Obstruction of justice.

(a) If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law enforcement officer, or Animal Control Officer employed pursuant to Code of Virginia, § 3.2-6555 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, law enforcement officer, or Animal Control Officer employed pursuant to Code of Virginia, § 3.2-6555, he or she shall be guilty of a Class 1 misdemeanor.

(b) Except as provided in Code of Virginia, § 18.2-460(C), any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law enforcement officer, or an Animal Control Officer employed pursuant to Code of Virginia, § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

(c) Any person who knowingly and willfully makes any materially false statement or representation to a law enforcement officer or an Animal Control Officer employed pursuant to Code of Virginia, § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

(Code 1993, § 20-18; Code 2004, § 66-37; Code 2015, § 19-30)

State law reference—Similar provisions, Code of Virginia, § 18.2-460.

Sec. 19-31. Unlawful wearing of officer's uniform or insignia; unlawful use of vehicle with word "police" shown thereon.

No person, not such an officer as is referred to in Code of Virginia, § 19.2-78, shall wear any such uniform as is designated pursuant to the provisions of such section or wear any other uniform of similar appearance bearing an insignia or markings containing the seal of the State or the insignia of any such officer's uniform, nor shall any person not such an officer or not authorized by such officer or not authorized by the military police of the Armed Forces or of the National Guard or not authorized by the military police of other governmental agencies use or cause to be used on the public roads or highways of this City any motor vehicle bearing markings with the word "police" shown thereon. However, the prohibition against wearing an insignia or markings containing the seal of the State shall not apply to any certified firefighter or to any certified or licensed emergency medical personnel. Any violation of this section shall be a Class 1 misdemeanor.

(Code 1993, § 20-20; Code 2004, § 66-39; Code 2015, § 19-31)

State law reference—Similar provisions, Code of Virginia, § 18.2-175.

Sec. 19-32. Calling or summoning ambulance or firefighting apparatus without just cause; maliciously activating fire alarms in public buildings.

(a) Any person who, without just cause therefor, 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 either if the call was made in the City or if the call or summons was received in the City.

(Code 1993, § 10-32(b); Code 2004, § 66-40; Code 2015, § 19-32)

State law reference—Similar provisions, Code of Virginia, § 18.2-212.

Sec. 19-33. Uniforms or badges for security guards, private investigators or special police officers.

(a) All uniforms, badges and patches worn by or issued to security guards, private investigators or special police officers shall be approved by the Chief of Police prior to the wearing of such uniforms, badges and patches in the City. It shall be unlawful for any security, investigative or special police agency or individual to wear any uniform, badge or patch which has not been approved by the Chief of Police. No security, investigative or special police agency or individual shall copy any portion of the uniform, badge or patch used by the Department of Police, nor shall any such security, investigative or special police agency or individual wear the uniform, badge or patch used by the Department of Police.

(b) No person engaged in security, investigative or special police work shall indicate in any manner, including, by way of illustration, the reproduction of the official seal of the City or the logo of the City, that it is in any manner affiliated with or a part of the Department of Police.

(c) Any person violating this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-21; Code 2004, § 66-41; Code 2015, § 19-33)

State law reference—Private security businesses, Code of Virginia, § 9.1-138 et seq.; unlawful wearing of officer's uniform or insignia and unlawful use of vehicle with word "police" shown thereon, Code of Virginia, § 18.2-175.

Sec. 19-34. Physicians and others rendering medical aid to report certain wounds.

(a) Any physician or other person who renders any medical aid or treatment to any person for any wound which such physician or other person knows or has reason to believe is a wound inflicted by a weapon specified in Code of Virginia, § 18.2-308 and which wound such physician or other person believes or has reason to believe was not self-inflicted shall as soon as practicable report such fact, including the wounded person's name and address, if known, to the Sheriff or Chief of Police in which treatment is rendered. If such medical aid or treatment is rendered in a hospital or similar institution, such physician or other person rendering such medical aid or treatment shall immediately notify the person in charge of such hospital or similar institution, who shall make such report forthwith.

(b) Any physician or other person failing to comply with this section shall be guilty of a Class 3 misdemeanor. Any person participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be immune from any civil liability in connection therewith, unless it is proved that such person acted in bad faith or with malicious intent.

(Code 1993, § 20-22; Code 2004, § 66-42; Code 2015, § 19-34)

State law reference—Similar provisions, Code of Virginia, § 54.1-2967.

Sec. 19-35. Report required of owner of motor vehicle in which is installed radio capable of being tuned to any Department of Police frequency.

The owner of every motor vehicle in which a radio, portable or otherwise, capable of being tuned to any frequency assigned to or used by the Department of Police is installed or used shall file a written report thereof with the Chief of Police within ten days of such installation or the commencement of such use. Such report shall be on a form approved by the Chief and shall include the name and address of the owner and the engine number, make, model and license number of the motor vehicle in which the radio is installed or used. Such report shall also state the purpose for having such receiver in the motor vehicle. Such owner shall immediately report to the Chief any change in the information required by this section. Any person who knowingly violates this section shall be guilty of a misdemeanor and punished as provided in Section 1-16.

(Code 1993, § 20-23; Code 2004, § 66-43; Code 2015, § 19-35)

State law reference—Use of police radio during commission of crime, Code of Virginia, § 18.2-462.1.

Secs. 19-36—19-58. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON*

***State law reference**—Crimes against the person, Code of Virginia, § 18.2-30 et seq.

Sec. 19-59. Assault and battery.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Law enforcement officer means any full-time or part-time employee of a Police Department or Sheriff's Office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to Code of Virginia, § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to Code of Virginia, § 29.1-200, and full-time sworn members of the Enforcement Division of the Department of Motor Vehicles appointed pursuant to Code of Virginia, § 46.2-217, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to Code of Virginia, §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to Code of Virginia, § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to Code of Virginia, § 5.1-158, and fire marshals appointed pursuant to Code of Virginia, § 27-30 when such fire marshals have police powers as set out in Code of Virginia, §§ 27-34.2 and 27-34.2:1.

School security officer means an individual who is employed by the local School Board for the purpose of maintaining order and discipline, preventing crime, investigating violations of School Board policies and detaining persons violating the law or School Board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

(b) Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor. If the person intentionally selects the person against whom a simple assault is committed because of such person's 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.

(c) In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of duties as such, such person shall be guilty of a Class 1 misdemeanor, and the sentence of such person, upon conviction, shall include a mandatory, minimum sentence of 15 days in jail. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to Code of Virginia, § 18.2-308.1, the person shall serve a mandatory, minimum sentence of confinement of six months.

(d) In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in Code of Virginia, § 8.01-581.1 who is engaged in the performance of his duties as an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory, minimum term of confinement.

(e) The term "simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school in the course and scope of such person's acting official capacity, any of the following:

(1) Incidental, minor or reasonable physical contact or other actions designed to maintain order and control;

(2) Reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property;

(3) Reasonable and necessary force to prevent a student from inflicting physical harm on himself or herself;

(4) Reasonable and necessary force for self-defense or the defense of others; or

(5) Reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within the student's control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall

be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

(Code 1993, § 20-36; Code 2004, § 66-76; Code 2015, § 19-59)

State law reference—Similar provisions, Code of Virginia, § 18.2-57.

Secs. 19-60—19-76. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY*

***Cross reference**—Breaking, damaging or destroying City property, § 8-442; graffiti control, § 11-132 et seq.; injuring, defacing or destroying library property, § 18-3.

State law reference—Crimes against property, Code of Virginia, § 18.2-77 et seq.

Sec. 19-77. Entering property of another for purpose of damaging it.

(a) 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 the contents thereof or in any manner to interfere with the rights of the owner, user or the occupant thereof to use such property free from interference.

(b) Any person violating this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-51; Code 2004, § 66-111; Code 2015, § 19-77)

State law reference—Similar provisions, Code of Virginia, § 18.2-121.

Sec. 19-78. Destruction or removal of property.

(a) If any person unlawfully destroys, defaces, damages or removes without the intent to steal any property, real or personal, not such person's own, or breaks down, destroys, defaces, damages or removes without the intent to steal any monument or memorial for war veterans described in Code of Virginia, § 15.2-1812, 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 the City or any tree marked for that purpose, such person shall be guilty of a Class 3 misdemeanor, provided that the court may, in its discretion, dismiss the charge if the locality or organization responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

(b) If any person intentionally causes such injury, such person shall be guilty of a Class 1 misdemeanor if the value of or damage to the property, memorial or monument is less than $1,000.00. The amount of loss caused by the destruction, defacing, damage or removal of such property, memorial or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.

(Code 1993, § 20-52; Code 2004, § 66-112; Code 2015, § 19-78)

State law reference—Injury to property, Code of Virginia, § 18.2-137 et seq.; action for damages to memorials for war veterans, Code of Virginia, § 15.2-1812.1.

Sec. 19-79. Damaging certain buildings.

(a) Any person who willfully and maliciously breaks any window or door of any courthouse, house of public worship, college, schoolhouse, City Hall or other public building or library; damages or defaces any public building or any statuary in or on any other public buildings or public grounds; or destroys any property in any of such buildings shall be guilty of a Class 1 misdemeanor if the damage is less than $1,000.00.

(b) Any person who willfully and unlawfully damages or defaces any book, newspaper, magazine, pamphlet, map, picture, manuscript, or other property located in any library, reading room, museum, or other educational institution shall be guilty of a Class 1 misdemeanor if the damage is less than $1,000.00.

(Code 1993, § 20-53; Code 2004, § 66-113; Code 2015, § 19-79)

State law reference—Similar provisions, Code of Virginia, § 18.2-138.

Sec. 19-80. 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 1993, § 20-54; Code 2004, § 66-114; Code 2015, § 19-80)

State law reference—Similar provisions, Code of Virginia, § 18.2-146.

Sec. 19-81. Entering or setting in motion vehicle, aircraft, boat, locomotive or rolling stock of railroad.

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, brake or mechanism thereof 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. However, this section 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 1993, § 20-55; Code 2004, § 66-115; Code 2015, § 19-81)

State law reference—Similar provisions, Code of Virginia, § 18.2-147.

Sec. 19-82. Dumping trash.

(a) It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal as defined in Code of Virginia, § 3.2-6500 for the purpose of disposal, or other unsightly matter on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or the owner's agent.

(b) When any person is arrested for a violation of this section and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with Code of Virginia, § 46.2-936 in making such arrest. When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of the motor vehicle shall be presumed to be the person ejecting or disposing of the matter. However, such presumption shall be rebuttable by competent evidence.

(c) Any person convicted of a violation of this section shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than $250.00 nor more than $2,500.00, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory, minimum of ten hours of community service in litter abatement activities.

(d) This section shall not apply to the lawful disposal of such matter in landfills.

(Code 1993, § 20-56; Code 2004, § 66-116; Code 2015, § 19-82)

Cross reference—Solid waste, Ch. 23; streets, sidewalks and public ways, Ch. 24.

State law reference—Similar provisions, Code of Virginia, § 33.2-802.

Sec. 19-83. Trespassing; designation of police to enforce trespass violations.

(a) If any person shall, without authority of law, go upon or remain upon the lands, buildings or premises of another or any part, portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign posted on such lands, buildings, premises or part, portion or area thereof, at a place where it may be reasonably seen, such person shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section, the term "person lawfully in charge" shall include members of the Department of Police when the owner, agent or manager of the property so authorizes in writing, according to

procedures set out by the Chief of Police. Such authorization shall be kept on file with the Chief of Police in such location within the Department of Police as the Chief of Police deems appropriate.

(Code 1993, § 20-57; Code 2004, § 66-117; Code 2015, § 19-83)

State law reference—Trespass, Code of Virginia, § 18.2-119; designation of police to enforce trespass violations, Code of Virginia, § 15.2-1717.1.

Secs. 19-84—19-109. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE*

***Cross reference**—Sound control, § 11-19 et seq.

State law reference—Crimes against peace and order, Code of Virginia, § 18.2-404 et seq.

DIVISION 1. GENERALLY

Sec. 19-110. Loitering—Obstructing free passage of others.

(a) Purpose. The purpose of this section is to ensure the free passage of pedestrians and vehicles on the public rights-of-way, to ensure free access to public places and to prevent activities that threaten the public safety or threaten a breach of the peace.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Loiter means to stand around or remain at, to sit or lie upon, or to park or remain parked in a motor vehicle at any public place or any place open to the public and to engage in any conduct prohibited under this section. The term "loiter" also means to collect, gather, congregate, or be a member of a group or a crowd of people who are gathered together in any public place or any place open to the public and to engage in any conduct prohibited under this law.

Place open to the public means any place open to the public or any place to which the public is invited or may reasonably expect to be invited, and in, on, or around any privately owned place of business, private parking lot, or private institution, including shopping centers, malls, places of worship, cemeteries, or any place of amusement and entertainment, whether or not a charge of admission for entry thereto is made. The term "place open to the public" includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

Public place means any public street, road, highway, bridge, curb, alley, alleyway, sidewalk, crosswalk, walkway area, or other public way, or any public resort, place of amusement, park, playground, land, mall, plaza, public building or grounds appurtenant thereto, school buildings or school grounds, or public transportation facility or public parking lot or any other publicly owned property.

(c) Prohibited conduct. It shall be unlawful for a person to loiter at any public place or any place open to the public in such a manner as to violate any of the following restrictions:

(1) No person shall loiter at any public place or any place open to the public so as to unreasonably hinder or obstruct the free normal flow or passage of pedestrians or vehicles thereon.

(2) No person shall block or obstruct, or prevent the free access to the entrance to any place open to the public.

(3) No person shall obstruct, molest or interfere or attempt to obstruct, molest or interfere with any person lawfully on or in a public right-of-way, street or highway, in a manner that would cause a reasonable person or pedestrian on a public right-of-way, street or highway to fear for his safety.

(4) No person shall engage in any conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed when such conduct occurs on or in any public place or any place open to the public.

(5) In order to promote the safe and orderly flow of traffic on the public streets and highways, no person shall stop a motor vehicle in such manner as to impede or render dangerous the use of the streets or highways by others, and no person shall loiter on or in the public streets or highways for the purpose of

engaging the operator of any motor vehicle or any passenger in a motor vehicle in conversation or any other activity while such motor vehicle is stopped on the main-traveled portion of a street or highway.

(d) Nothing in this section shall be construed to prohibit a lawful assembly or lawful picketing.

(e) A person violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-66; Code 2004, § 66-151; Code 2015, § 19-110; Ord. No. 2004-244-231, § 1, 9-13-2004)

State law reference—Obstructing free passage of others, Code of Virginia, § 18.2-404.

Sec. 19-111. Loitering—Loitering near schools.

No person shall loiter near the premises of public schools or other schools for the purpose of molesting or interfering with any pupil or teacher.

(Code 1993, § 20-67; Code 2004, § 66-152; Code 2015, § 19-111; Ord. No. 2004-244-231, § 1, 9-13-2004)

State law reference—Authority to prohibit loitering, Code of Virginia, § 15.2-926.

Sec. 19-112. Using abusive language to another.

If any person shall, in the presence or hearing of another, curse or abuse such other individual or use any violent abusive language to such individual concerning such individual or any of the individual's 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 1993, § 20-68; Code 2004, § 66-153; Code 2015, § 19-112)

State law reference—Similar provisions, Code of Virginia, § 18.2-416.

Sec. 19-113. Disorderly conduct.

(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, such person:

(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 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 funeral, memorial service, or meeting of the City Council or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption:

a. Prevents or interferes with the orderly conduct of the funeral, memorial service, or meeting; or

b. Has a direct tendency to cause acts of violence by the person 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:

a. Prevents or interferes with the orderly conduct of the operation or activity; or

b. Has a direct tendency to cause acts of violence by the person at whom, individually, the disruption is directed.

(b) 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 chapter.

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

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

(Code 1993, § 20-69; Code 2004, § 66-154; Code 2015, § 19-113)

State law reference—Similar provisions, Code of Virginia, § 18.2-415.

Secs. 19-114—19-139. Reserved.

DIVISION 2. AGGRESSIVE SOLICITATION RESTRICTIONS

Sec. 19-140. Purpose.

The purposes of the aggressive solicitation restrictions imposed under this division are to:

(1) Reduce the detrimental effect that threatening and intimidating conduct has on a safe environment in the City;

(2) Restrict certain aggressive acts of solicitors without prohibiting constitutionally protected activity; and

(3) Maintain the peace and order of the City and preserve and protect the rights of all citizens to be free of intimidation.

(Code 1993, § 20-75; Code 2004, § 66-176; Code 2015, § 19-140)

Sec. 19-141. Offense.

No person shall solicit, ask, or beg in an aggressive manner in any public place.

(Code 1993, § 20-76; Code 2004, § 66-177; Code 2015, § 19-141)

Sec. 19-142. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggressive manner means intentionally or recklessly:

(1) Touching or causing physical contact with another person without that person's consent in the course of soliciting, asking, or begging;

(2) Blocking the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting, asking, or begging; or

(3) Using violent, obscene, or threatening gestures or language toward a person solicited, if such conduct is intended to or is likely to cause a reasonable person to fear bodily harm to oneself, or the commission of a criminal act upon the person or upon property in the person's immediate possession or otherwise be intimidated into giving money or other thing of value or buying merchandise.

Public place means any street, sidewalk, bridge, alley, alleyway, plaza, park, public grounds, public driveway, public parking lot, public transportation facility, or inside a motor vehicle in or on any such place.

Solicit, ask or *beg* means using the spoken, written, or printed word or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services regardless of the solicitor's purpose or intended use of the money or other thing of value.

(Code 1993, § 20-77; Code 2004, § 66-178)

Cross reference—Definitions generally, § 1-2.

Sec. 19-143. Permitted conduct.

Acts authorized as an exercise of a person's constitutional right to picket, protest, or speak and acts authorized by a permit issued by the City shall not constitute unlawful activity under this division; nor does aggressive solicitation include solicitation without engaging in the acts specifically prohibited in this division.

(Code 1993, § 20-78; Code 2004, § 66-179; Code 2015, § 19-143)

Sec. 19-144. Penalty.

Any person, upon conviction of an offense charged under this division, shall be guilty of a Class 1

misdemeanor.

(Code 1993, § 20-79; Code 2004, § 66-180; Code 2015, § 19-144)

Secs. 19-145—19-171. Reserved.

DIVISION 3. ADDITIONAL RESTRICTIONS ON SOLICITATION

Sec. 19-172. Purpose.

The purposes of the solicitation restrictions imposed under this division are to:

(1) Reduce the detrimental effect that threatening and intimidating conduct has on a safe environment in the City;

(2) Restrict solicitation in certain places where citizens feel vulnerable to criminal activity, without prohibiting constitutionally protected activity;

(3) Restrict solicitation after dark, when citizens feel vulnerable to criminal activity, without prohibiting constitutionally protected activity; and

(4) Reduce the detrimental effect that solicitation has on tourism and retail business.

(Code 2004, § 66-191; Code 2015, § 19-172; Ord. No. 2006-200-2007-14, § 1, 1-8-2007)

Sec. 19-173. Offense.

(a) No person shall solicit, ask, or beg in the following public places:

(1) Within 20 feet in any direction of any entrance or exit of any bank during the hours of operation of such bank;

(2) Within 20 feet in any direction of any automated teller machine;

(3) Within 20 feet in any direction of any outdoor or sidewalk café or restaurant during the hours of operation of such outdoor or sidewalk café or restaurant; and

(4) Within 20 feet in any direction of any package store or food store that sells alcohol during the hours of operation of such package store or food store.

(b) No person shall solicit, ask, or beg in a public place after sunset or before sunrise. However, passive solicitation is permitted at any time except within the areas listed in this section or as otherwise prohibited by law.

(Code 2004, § 66-192; Code 2015, § 19-173; Ord. No. 2006-200-2007-14, § 1, 1-8-2007)

Sec. 19-174. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Passive solicitation means quietly standing or sitting or performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

Public place means any street, sidewalk, bridge, alley, alleyway, plaza, park, public grounds, public driveway, public parking lot, public transportation facility, or inside a motor vehicle in or on any such place.

Solicit, ask or *beg* means using the spoken, written, or printed word or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services, regardless of the solicitor's purpose or intended use of the money or other thing of value. The term "solicit, ask or beg" does not include "passive solicitation" as defined in this section.

(Code 2004, § 66-193; Code 2015, § 19-174; Ord. No. 2006-200-2007-14, § 1, 1-8-2007)

Cross reference—Definitions generally, § 1-2.

Sec. 19-175. Permitted conduct.

Acts authorized as an exercise of a person's constitutional right to picket, protest, or speak and acts authorized

by a permit issued by the City shall not constitute unlawful activity under this division.

(Code 2004, § 66-194; Code 2015, § 19-175; Ord. No. 2006-200-2007-14, § 1, 1-8-2007)

Sec. 19-176. Penalty.

Any person, upon conviction of an offense charged under this division, shall be guilty of a Class 4 misdemeanor.

(Code 2004, § 66-195; Code 2015, § 19-176; Ord. No. 2006-200-2007-14, § 1, 1-8-2007)

Secs. 19-177—19-205. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS*

***Cross reference**—Cruelty to animals, § 4-96; buildings and other structures harboring illegal drug use, § 11-154 et seq.; buildings and other structures harboring bawdy place, § 11-172 et seq.

State law reference—Crimes involving words and decency, Code of Virginia, § 18.2-325 et seq.

DIVISION 1. GENERALLY

Sec. 19-206. Prostitution and solicitation of prostitution.

(a) Any person who, for money or its equivalent, (i) commits any act in violation of Code of Virginia, § 18.2-361; performs cunnilingus, fellatio, or anilingus upon or by another person; engages in sexual intercourse or anal intercourse; touches the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allows another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify or (ii) offers to commit any act in violation of Code of Virginia, § 18.2-361; perform cunnilingus, fellatio, or anilingus upon or by another person; engage in sexual intercourse or anal intercourse; touch the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allow another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as a Class 1 misdemeanor.

(b) Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated in subsection (a) of this section and thereafter does any substantial act in furtherance thereof shall be guilty of solicitation of prostitution and shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-81; Code 2004, § 66-211; Code 2015, § 19-206)

State law reference—Similar provisions, Code of Virginia, § 18.2-346.

Sec. 19-207. Exhibition of films in closed booths in movie arcade.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Movie arcade means any business establishment or other business facility to which the public is admitted and in which a moving picture, film or videotape viewing device is operated. The presence of a videotape viewing device in a business establishment does not make the business a movie arcade if the exhibition of videotapes by means of such devices is not the principal business of the establishment.

Viewing area means any location within a movie arcade where a patron, customer, or employee of the movie arcade or any other person would ordinarily be positioned while watching a moving picture, film or videotape viewing device in operation.

(b) It shall be unlawful for any person to own, operate, or cause to be operated a movie arcade in the City, unless all viewing areas within such movie arcade are visible from a continuous main aisle or other point of observation ordinarily accessible to the public and are not obscured by any curtain, door, wall, or other enclosure.

(c) Any person, upon conviction of an offense charged under this section, shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-83; Code 2004, § 66-213; Code 2015, § 19-207)

Sec. 19-208. Activities of persons in adult entertainment establishments.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Adult entertainment establishment means a restaurant, nightclub, private club or similar establishment which features, on a regular basis, live performances involving persons who are seminude. Any establishment which features such performances on more than one day in a 30-day period shall be deemed to be an adult entertainment establishment. The performance of a legitimate theatrical presentation where nudity or seminudity is only incidental to the primary purpose of the performance shall not make the establishment wherein such performances are held an adult entertainment establishment.

Nude means any state of dress less than seminude.

Seminude means any state of dress with less than completely and opaquely covered pubic region, buttocks, or female breasts below a point immediately above the top of the areolae, excepting any portion of the cleavage of the female breast exhibited by a dress, shirt, leotard, bathing suit or other wearing apparel, provided the areolae are not exposed, but under no circumstances less than completely covered genitals, anus, or areolae of the female breast.

(b) *Restriction.* Any person appearing on the premises of an adult entertainment establishment who is nude or seminude and who is not at least one foot from the nearest patron and who is not on a stage which is at least 24 inches above the floor level shall be guilty of a Class 1 misdemeanor.

(c) *Responsibility of owner, manager or person in control.* Any owner, manager or person in control of the premises of an adult entertainment establishment who knows or reasonably should know that persons appearing on the premises are in violation of subsection (b) of this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-84; Code 2004, § 66-214; Code 2015, § 19-208)

Sec. 19-209. Obstructions in adult entertainment establishments.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Adult entertainment establishment means a restaurant, nightclub, private club or similar establishment which features, on a regular basis, live performances involving persons who are seminude. Any establishment which features such performances on more than one day in a 30-day period shall be deemed to be an adult entertainment establishment. The performance of a legitimate theatrical presentation where nudity or seminudity is only incidental to the primary purpose of the performance shall not make the establishment wherein such performances are held an adult entertainment establishment.

Direct line of sight means the ability to directly view an area without the benefit or assistance of a mirror, video camera or similar aid.

Live exhibition or performance means modeling, dancing or any similar activity which involves a person physically performing for the benefit of one or more other persons.

Viewing area means any area within an adult entertainment establishment where a live exhibition or performance is taking place.

(b) *Obstruction of viewing area.* No viewing area on the premises of an adult entertainment establishment shall be obstructed from the remainder of the establishment's interior by curtains, doors, walls, display racks or any other permanent or temporary enclosure.

(c) *Employee required to be on premises.* At least one employee, in addition to any persons providing live exhibitions or performances, must be on duty on the premises of an adult entertainment establishment at all times that any patron, customer or member of the audience is inside the business establishment, and such employee must have a direct line of sight of any viewing area during any live exhibition or performance.

(Code 1993, § 20-85; Code 2004, § 66-215; Code 2015, § 19-209)

Secs. 19-210—19-226. Reserved.

DIVISION 2. OBSCENITY*

***Charter reference**—Authority of City to prevent vice, immorality and lewd and disorderly conduct or exhibitions, § 2.04(a).

State law reference—Obscenity and related offenses, Code of Virginia, § 18.2-372 et seq.; local obscenity ordinances, Code of Virginia, § 15.2-926.2.

Sec. 19-227. Purpose.

This division is adopted pursuant to the powers conferred by Section 2.04(a) of the Charter and Code of Virginia, § 15.2-926.2 for the prevention of vice and immorality and lewd and disorderly conduct or exhibitions.

(Code 1993, § 20-91; Code 2004, § 66-236; Code 2015, § 19-227)

Sec. 19-228. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 thereof 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.

(Code 1993, § 20-92; Code 2004, § 66-237; Code 2015, § 19-228)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 18.2-372.

Sec. 19-229. Obscene items enumerated.

For the purposes of this division, obscene items shall include the following:

(1) Any obscene book;

(2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, slide, motion picture, videotape recording;

(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; or

(4) Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in a perceivable form.

(Code 1993, § 20-93; Code 2004, § 66-238; Code 2015, § 19-229)

State law reference—Similar provisions, Code of Virginia, § 18.2-373.

Sec. 19-230. Production, publication, sale or possession of obscene items.

(a) For the purposes of this section, the term "distribute" shall mean delivery in person, by mail, by messenger or by any other means by which obscene items may pass from one person to another.

(b) 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 such person's 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 section.

(Code 1993, § 20-94; Code 2004, § 66-239; Code 2015, § 19-230)

State law reference—Similar provisions, Code of Virginia, § 18.2-374.

Sec. 19-231. Obscene exhibitions and performances.

It shall be unlawful for any person knowingly to:

(1) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene, provided that no employee of any person or legal entity operating a theater, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theater or an officer of such entity and has no financial interest in such theater other than receiving salary and wages; or

(2) Own, lease or manage any theater, garden, building, structure, room or place and lease, let, lend or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theater, garden, building, structure, room or place.

(Code 1993, § 20-95; Code 2004, § 66-240; Code 2015, § 19-231)

State law reference—Similar provisions, Code of Virginia, § 18.2-375.

Sec. 19-232. Advertising obscene items, exhibitions or performances.

It shall be unlawful for any person knowingly to prepare, print, publish, or circulate or cause to be prepared, printed, published or circulated any notice or advertisement of any obscene item proscribed in Section 19-229 or of any obscene performance or exhibition proscribed in Section 19-231, stating or indicating where such obscene item, exhibition, or performance may be purchased, obtained, seen or heard.

(Code 1993, § 20-96; Code 2004, § 66-241; Code 2015, § 19-232)

State law reference—Similar provisions, Code of Virginia, § 18.2-376.

Sec. 19-233. Placards, posters, banners, bills, writings or pictures.

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 which is obscene or which advertises or promotes any obscene item proscribed in Section 19-229 or any obscene exhibition or performance proscribed in Section 19-231 or knowingly to permit such to be displayed on property belonging to or controlled by such person.

(Code 1993, § 20-97; Code 2004, § 66-242; Code 2015, § 19-233)

State law reference—Similar provisions, Code of Virginia, § 18.2-377.

Sec. 19-234. Coercing acceptance of obscene articles or publications.

It shall be unlawful for any person, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, to require that the purchaser or consignee receive for resale any other article, book, or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications or by reason of the return thereof.

(Code 1993, § 20-98; Code 2004, § 66-243)

State law reference—Similar provisions, Code of Virginia, § 18.2-378.

Sec. 19-235. Employing or permitting minor to assist in offense.

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 division.

(Code 1993, § 20-99; Code 2004, § 66-244; Code 2015, § 19-235)

State law reference—Similar provisions, Code of Virginia, § 18.2-379.

Sec. 19-236. Photographs, slides and motion pictures.

A person shall be guilty of a Class 3 misdemeanor if the person knowingly:

(1) Photographs such person's own body or that of any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or

(2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

(Code 1993, § 20-100; Code 2004, § 66-245; Code 2015, § 19-236)

State law reference—Similar provisions, Code of Virginia, § 18.2-382.

Sec. 19-237. Showing previews of certain motion pictures.

It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion picture to see the complete motion picture from which the trailer or preview is taken.

(Code 1993, § 20-101; Code 2004, § 66-246; Code 2015, § 19-237)

State law reference—Similar provisions, Code of Virginia, § 18.2-386.

Sec. 19-238. Indecent exposure.

Every person who intentionally makes an obscene display or exposure of such person's own body or the private parts thereof in any public place or in any place where others are present or procures another person to so expose such other person's body 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 1993, § 20-102; Code 2004, § 66-247)

State law reference—Similar provisions, Code of Virginia, § 18.2-387.

Sec. 19-239. Public urination and defecation.

(a) It shall be unlawful for any person to knowingly, voluntarily and intentionally urinate or defecate in public or in a public place or in a place open to public view, except in a public restroom facility.

(b) Any person, upon conviction of violation of this section, shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-103; Code 2004, § 66-248; Code 2015, § 19-239)

Sec. 19-240. Exceptions to application of division.

Nothing contained in this division shall be construed to apply to the following:

(1) The purchase, distribution, exhibition, or loan of any book, magazine, or other printed or manuscript material by any library, school, or institution of higher learning, supported by public appropriation.

(2) The purchase, distribution, exhibition, or loan of any work of art by any museum of fine arts, school, or institution of higher learning, supported by public appropriation.

(3) The exhibition or performance of any play, drama, tableau, or motion picture by any theater, museum of fine arts, school or institution of higher learning, supported by public appropriation.

(Code 1993, § 20-105; Code 2004, § 66-250; Code 2015, § 19-240)

State law reference—Similar provisions, Code of Virginia, § 18.2-383.

Sec. 19-241. Penalties.

Any person convicted for the first time of an offense under this division shall, except where otherwise provided, be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-106; Code 2004, § 66-251; Code 2015, § 19-241)

State law reference—Similar provisions, Code of Virginia, § 18.2-380.

Secs. 19-242—19-260. Reserved.

DIVISION 3. EXPOSING MINORS TO HARMFUL MATERIALS*

***State law reference**—Prohibited sales and loans to juveniles, Code of Virginia, § 18.2-390 et seq.

Sec. 19-261. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Harmful to juveniles means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(1) Predominantly appeals to the prurient, shameful or morbid interest of juveniles;

(2) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles; and

(3) Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for juveniles.

Juvenile means a person less than 18 years of age.

Knowingly means having general knowledge of or reason to know or a belief or grounds for belief which warrants further inspection or inquiry of both the character and content of any material described in this division which is reasonably susceptible of examination by the defendant, and the age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability under this division if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

Nudity means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered or uncovered male genitals in a discernibly turgid state.

Sadomasochistic abuse means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual conduct means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such is female, breast.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Video or computer game means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, television gaming system, console, or other technology.

(Code 1993, § 20-116; Code 2004, § 66-276; Code 2015, § 19-261)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 18.2-390.

Sec. 19-262. Unlawful acts.

(a) It shall be unlawful for any person to sell, rent or loan to a juvenile, knowing or having reason to know that such person is a juvenile, or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:

(1) Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or computer game, electronic file or message containing an image, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles; or

(2) Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message containing words, or sound recording which contains any matter enumerated in subsection (a)(1) of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.

However, if a person uses services of an Internet service provider or an electronic mail service provider in committing acts prohibited under this subsection, such Internet service provider or electronic mail service provider shall not be held responsible for violating this subsection.

(b) It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

(c) It shall be unlawful for any juvenile falsely to represent to any person mentioned in subsection (a) or (b) of this section or to such person's agent that such juvenile is 18 years of age or older, with the intent to procure any material set forth in subsection (a) of this section or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (b) of this section.

(d) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (a) or (b) of this section or to such person's agent that the person is the parent or guardian of any juvenile or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection (a) of this section or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (b) of this section.

(e) No person shall sell, rent, or loan any item described in subsection (a)(1) or (2) of this section to any individual who does not demonstrate such individual's age in accordance with Code of Virginia, § 18.2-371.2(C).

(f) A violation of subsection (a), (b), (c) or (d) of this section is a Class 1 misdemeanor. A person or separate retail establishment who violates subsection (e) of this section shall be liable for a civil penalty not to exceed $100.00 for a first violation, a civil penalty not to exceed $200.00 for a second violation, and a civil penalty not to exceed $500.00 for a third or subsequent violation.

(Code 1993, § 20-117; Code 2004, § 66-277; Code 2015, § 19-262)

State law reference—Similar provisions, Code of Virginia, § 18.2-391.

Sec. 19-263. Exceptions to application of division.

Nothing contained in this division shall be construed to apply to the following:

(1) The purchase, distribution, exhibition, or loan of any work of art, book, magazine, or other printed or manuscript material by any accredited museum, library, school, or institution of higher learning.

(2) The exhibition or performance of any play, drama, tableau, or motion picture by any theater, museum, school or institution of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds.

(Code 1993, § 20-118; Code 2004, § 66-278; Code 2015, § 19-263)

State law reference—Similar provisions, Code of Virginia, § 18.2-391.1.

Secs. 19-264—19-289. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY*

***Cross reference**—Driving with firearms or weapons in possession of driver, § 29-48.

State law reference—Crimes involving health and safety, Code of Virginia, § 18.2-247 et seq.

DIVISION 1. GENERALLY

Sec. 19-290. 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 with the intent to become intoxicated, inebriated, excited, stupefied or to dull the brain or nervous system. Any person violating 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 chemical substances with the intent to intoxicate, inebriate, excite, stupefy or to dull the brain or nervous system of such person. Any person violating this subsection shall be guilty of a Class 2 misdemeanor.

(c) For the purposes of this section, the term "noxious chemical substances" includes fingernail polish and model airplane glue and chemicals containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors, fluorinated hydrocarbons or vapors, or hydrogenated fluorocarbons.

(Code 1993, § 20-131; Code 2004, § 66-311; Code 2015, § 19-290)

State law reference—Similar provisions, Code of Virginia, § 18.2-264.

Sec. 19-291. Discarding or abandonment of iceboxes, 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 which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is:

(1) Being used for the purpose for which it was originally designed;

(2) Being used for display purposes by any retail or wholesale merchant; or

(3) Crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any person violating this section shall be guilty of a Class 3 misdemeanor.

(Code 1993, § 20-133; Code 2004, § 66-313; Code 2015, § 19-291)

State law reference—Abandonment, etc., of iceboxes, refrigerators, etc., Code of Virginia, § 18.2-319.

Sec. 19-292. Playing games or throwing objects in street or alley.

No person shall play any game or throw or bat any baseball or other like ball or throw snowballs, stones or other missiles in any street or public alley in the City.

(Code 1993, § 20-134; Code 2004, § 66-314; Code 2015, § 19-292)

State law reference—Authority to adopt regulation of streets, Code of Virginia, § 46.2-932.

Sec. 19-293. Skateboarding prohibited on certain premises.

No person shall use a skateboard on the premises of the main branch of the public library, City Hall, Canal Walk or Festival Park.

(Code 1993, § 20-134.1; Code 2004, § 66-315; Code 2015, § 19-293)

State law reference—Authority to adopt, Code of Virginia, § 46.2-932.

Sec. 19-294. Abandoned or unclaimed tangible personal property.

(a) *Disposition generally.* The Chief of Police is authorized to provide for the removal of any tangible personal property abandoned on the streets or other public places of the City which constitutes or is liable to constitute a menace to the safety of vehicles or pedestrians using the City streets and to receive and hold any and all other unclaimed and unidentified property coming into the possession of the Department of Police. Unclaimed bicycles and mopeds may also be disposed of in accordance with Code of Virginia, § 15.2-1720 and Section 27-389. Unclaimed firearms may also be disposed of in accordance with Section 19-331.

(b) *Delegation of authority.* The Chief of Police is hereby authorized to delegate to the Director of Procurement Services the authority to dispose of all abandoned tangible personal property received and held by the Department of Police and to perform other duties required in connection thereto.

(c) *Disposal of property of no value.* All property removed and received by the Chief of Police pursuant to subsection (a) of this section which, in the Chief's opinion, has no value shall be disposed of as any other waste

products of similar kind are disposed of by the street cleaning forces of the City.

(d) *Disposal of property of value.* Should the property be of value and the owner can be ascertained, it shall be turned over to such owner upon the payment of all costs incurred by the Chief of Police incident to the removal and preservation of such property. However, if the Chief is unable to ascertain the owner of such property or the owner's whereabouts within a period of 60 days and the property still remains unclaimed, the Chief shall cause to be inserted in a newspaper having a general circulation in the City, once a week for two successive weeks, an advertisement which shall describe the property with reasonable certainty; shall specify a date, time, and place of sale; and shall notify all persons interested that, unless such property is claimed by the owner, with satisfactory proof of ownership and payment of costs incurred in its removal and preservation, before a specified day, the property will be sold to the highest competent bidder. Should no bid be received and the Chief be of the opinion that the property in question has practically no intrinsic value, the Chief shall be authorized to make such disposition of the property as deemed necessary. Any property or other thing of value removed from the streets or other public places of the City or received by the Chief which is of a perishable nature or in a usable condition may be utilized by any other agency of the City at the direction of the Chief of Police. The value of such property shall be determined by three buyers in the Department of Procurement Services if a claim is made at a later date.

(e) *Proceeds of sale.* The net proceeds of the sale of all property or other things of value removed from the streets of the City and sold under the authority of this section shall be deposited in the City treasury by the Chief of Police if no claim for the net proceeds has been made within 60 days of the date of the sale. If, within three years after the date of sale of any property, the ownership thereof is established to the satisfaction of the Chief Administrative Officer, the net proceeds of the sale shall be paid to the owner without interest or other charge. No claim shall be made nor any suit, action or proceeding instituted for the recovery of such proceeds after three years from the date of the sale.

(f) *Application of section.* This section shall apply to any personal property belonging to another which has been acquired by a law enforcement officer, pursuant to official duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Virginia Disposition of Unclaimed Property Act, Code of Virginia, § 55.1-2500 et seq.

(Code 1993, § 20-135; Code 2004, § 66-316; Code 2015, § 19-294; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2010-21-67, § 2, 4-26-2010)

State law reference—Similar provisions, Code of Virginia, § 15.2-1719.

Sec. 19-295. Solicitation on center median.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Center median means any area in the middle of any street or highway, designed to provide a barrier to keep traffic on one side of the street from going to the other side of the street. A center median may be a raised concrete strip or a grass strip.

Selling, offering for sale, advertising, soliciting, distributing and *distribute* mean any such activity which involves the delivery of any document, publication or other item or the intent to deliver any document, publication or other item to any occupant of a motor vehicle located on a City street or any such activity which involves the receipt of any money or any item or the intent to receive any money or any item from the occupant of an automobile located on a City street, other than a motor vehicle parked in a designated parking space.

(b) *Purpose.* Intersections that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Frequently, persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights. The purpose of this section is to prevent dangers to persons and property, to prevent delays in vehicular and pedestrian traffic and to avoid interference with such traffic flow.

(c) *Prohibited use of center median strip.* It shall be unlawful for any person to stand or stay on any center median for the purpose of soliciting contributions of any kind. It shall also be unlawful for any person to stand or stay on any center median for the purpose of selling, offering for sale or advertising any product, property or service

or for the purpose of distributing any document, product, or other item.

(d) *Permitted use of center median.* In addition to other pedestrian purposes, center medians may also be used under the following circumstances:

(1) A person may be on the center median temporarily to deal with an emergency.

(2) A pedestrian crossing a street or highway may remain on a center median until it is safe to proceed.

(3) A person may be on that portion of a center median in a street that has been temporarily closed by a permit issued pursuant to Section 24-336.

(e) *Penalty.* Any person violating this section shall be guilty of a Class 4 misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Code 1993, § 20-136; Code 2004, § 66-317; Code 2015, § 19-295)

Sec. 19-296. Unlawful entry onto streets.

(a) It shall be unlawful for any person to enter a street and approach a motor vehicle to:

(1) Distribute handbills, merchandise, leaflets, bulletins, literature, advertisements, or similar material to the drivers of motor vehicles or passengers therein;

(2) Solicit contributions of any nature from the drivers of motor vehicles or passengers therein; or

(3) Sell any merchandise or attempt to sell merchandise to the drivers of motor vehicles or passengers therein.

(b) Any person violating this section shall be guilty of a Class 4 misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Code 1993, § 20-137; Code 2004, § 66-318; Code 2015, § 19-296)

Secs. 19-297—19-325. Reserved.

DIVISION 2. WEAPONS*

***State law reference**—Dangerous use of firearms or other weapons, Code of Virginia, § 18.2-279 et seq.; Uniform Machine Gun Act, Code of Virginia, § 18.2-288 et seq.; Sawed-Off Shotgun and Sawed-Off Rifle Act, Code of Virginia, § 18.2-299 et seq.; concealed weapons, Code of Virginia, § 18.2-307.1 et seq.

Sec. 19-326. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ammunition means a cartridge, pellet, ball, missile or projectile adapted for use in a firearm, toy pistol or toy rifle.

Firearm means a weapon in which ammunition may be used or discharged by explosion, pneumatic pressure or mechanical contrivance, but does not mean a toy pistol or toy rifle.

Minor means a person under the age of 18 years.

Public place means a street, alley, road, highway, bridge, viaduct, subway, underpass, park, parkway, playfield or playground in the City. A public school and the grounds appurtenant thereto and a public building (municipally owned or occupied) and the grounds appurtenant thereto, whether wholly or partially within the City limits, shall be deemed a public place.

(Code 1993, § 20-146; Code 2004, § 66-341; Code 2015, § 19-326)

Cross reference—Definitions generally, § 1-2.

Sec. 19-327. Willfully discharging firearms.

If any person willfully discharges or causes to be discharged any firearm anywhere within the City limits, such person shall be guilty of a Class 1 misdemeanor. However, this section shall not apply to the discharge of firearms:

(1) By any law enforcement officer in the performance of official duties;

(2) By any person whose willful act is otherwise justifiable or excusable at law in the protection of such person's life or is otherwise specifically authorized by law;

(3) By any law enforcement officer or military personnel as part of authorized training, a funeral, a non-holiday salute or in commemoration of any State holiday;

(4) When using blank cartridges as part of a theatrical performance or sporting event; or

(5) For the killing of deer, pursuant to Code of Virginia, § 29.1-529, on land of at least five acres that is zoned for agricultural use.

(Code 1993, § 20-147; Code 2004, § 66-342; Code 2015, § 19-327; Ord. No. 2012-55-39, § 1, 4-23-2012)

State law reference—Similar provisions, Code of Virginia, § 18.2-280; authority to prohibit discharge of firearms, Code of Virginia, § 15.2-1113.

Sec. 19-328. Discharging arrows.

It shall be unlawful for any person to discharge arrows from a bow or crossbow in any street or public alley of this City. The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law enforcement officers and military personnel in performance of their lawful duties.

(Code 1993, § 20-148; Code 2004, § 66-343; Code 2015, § 19-328)

State law reference—Similar provisions, Code of Virginia, § 18.2-286.

Sec. 19-329. Shooting arrows at or upon property of another.

It shall be unlawful for any person to shoot an arrow, from any form or type of bow, at or upon the property of another without permission.

(Code 1993, § 20-148.1; Code 2004, § 66-344; Code 2015, § 19-329)

Sec. 19-330. Clasp knives.

It shall be unlawful for any person to have in such person's possession or to offer or sell or to sell a clasp knife having a blade more than 3 1/4 inches in length.

(Code 1993, § 20-154; Code 2004, § 66-347; Code 2015, § 19-330)

Sec. 19-331. Disposition of certain unclaimed weapons.

The Chief of Police is hereby authorized to dispose of all unclaimed firearms and other weapons held by and coming into the possession of the Department of Police, which have been in the possession of the Department of Police for a period of more than 120 days, either through public sale through the Department of Procurement Services or by consigning to any agency of the City for use of the unclaimed property as a whole or to be condemned and dismantled for the usable parts. For the purposes of this section, the term "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Virginia Disposition of Unclaimed Property Act (Code of Virginia, § 55.1-2500 et seq.). At the discretion of the Chief of Police, or the Chief's duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the Chief of Police, Sheriff, or their duly authorized agents shall comply with the notice provision contained in Section 19-294. In lieu of destroying any such unclaimed firearm, the Chief may donate the firearm to the Department of Forensic Science, upon agreement of the Department.

(Code 1993, § 20-155; Code 2004, § 66-348; Code 2015, § 19-331; Ord. No. 2010-21-67, § 2, 4-26-2010)

State law reference—Similar provisions, Code of Virginia, § 15.2-1721.

Sec. 19-332. Carrying concealed weapons.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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 of a combustible material from one or more barrels when held in one hand.

Lawfully admitted for permanent residence means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

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

(b) If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, Bowie knife, switchblade knife, ballistic knife, machete, razor, sling bow, spring stick, metal knucks, or blackjack; (iii) any 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; (iv) any 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 (v) any weapon of like kind as those enumerated in this subsection, he is guilty of a Class 1 misdemeanor. 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. It shall be an affirmative defense to a violation of clause (i) regarding a handgun, that a person had been issued, at the time of the offense, a valid concealed handgun permit.

(c) The exemptions in Code of Virginia, § 18.2-308 apply to this section.

(d) Fees for processing of an application or issuance of a permit for a concealed handgun and to cover the cost of conducting an investigation for a concealed handgun permit shall be paid to the City. The application processing fee shall be $10.00, and the investigation fee shall be $35.00.

(Code 1993, § 20-156; Code 2004, § 66-349; Code 2015, § 19-332; Ord. No. 2012-105-90, § 1, 6-25-2012)

State law reference—Similar provisions, Code of Virginia, §§ 18.2-307.1, 18.2-308; fees for concealed handgun permits, Code of Virginia, § 18.2-308.03.

Sec. 19-333. Furnishing certain weapons to minors.

If any person sells, barters, gives or furnishes or causes to be sold, bartered, given or furnished to any minor a dirk, switchblade knife or Bowie knife, having good cause to believe such individual to be a minor, such person shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-158; Code 2004, § 66-351; Code 2015, § 19-333)

State law reference—Similar provisions, Code of Virginia, § 18.2-309.

Sec. 19-334. Transporting loaded shotgun or rifle.

(a) It shall be unlawful for any person to transport, possess or carry a loaded shotgun or a loaded rifle in any vehicle on any public street, road or highway. Violations of this section shall be punishable by a fine of not more than $100.00.

(b) This section shall not apply to duly authorized law enforcement officers or to military personnel in the performance of their lawful duties nor to any person demonstrating a reasonable belief that a loaded rifle or shotgun is necessary for his or her personal safety in the course of employment or business.

(Code 1993, § 20-160; Code 2004, § 66-353; Code 2015, § 19-334)

State law reference—Authority for above, Code of Virginia, § 15.2-915.2.

Sec. 19-335. Carrying firearms in certain places.

No person shall possess, carry, or transport any firearms, ammunition, or components or combination thereof (i) in any building or part thereof, owned or used by the City, or by any authority or local government entity created or controlled by the City, for governmental purposes; (ii) in any public park owned or operated by the City, or by

any authority or local government entity created or controlled by the City; (iii) in any recreation or community center facility operated by the City, or by any authority or local government entity created or controlled by the City; or (iv) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. In buildings that are not owned by the City, or by any authority or local governmental entity created or controlled by the City, this section shall apply only to the part of the building that is being used for a governmental purpose and when such building, or part thereof, is being used for a governmental purpose. This prohibition shall not apply to any activities to which Code of Virginia, § 15.2-915 provides that this section shall not apply or to any duly authorized (i) military personnel in the performance of their lawful duties, (ii) law enforcement officer, or (iii) security guard contracted or employed by the City. Notice of this section shall be posted as required by Code of Virginia, § 15.2-915.

(Code 2015, § 19-334.1; Ord. No. 2019-165, § 1, 7-1-2019; Ord. No. 2020-184, § 1, 9-8-2020)

State law reference—Authority for above section, Code of Virginia, § 15.2-915(E).

Sec. 19-336. Reporting lost or stolen firearms.

(a) Any person who loses a firearm or from whom a firearm is stolen shall report the loss or theft to the Department of Police within 24 hours after such person discovers the loss or theft or is informed by a person with personal knowledge of the loss or theft. The Department of Police shall enter such report information into the National Crime Information Center maintained by the Federal Bureau of Investigation. The provisions of this subsection shall not apply to the loss or theft of an antique firearm as defined in Code of Virginia, § 18.2-308.2:2.

(b) A violation of this section is punishable, for a first offense, by a civil penalty of $125.00 and, for any subsequent offense, by a civil penalty of $250.00, which shall be paid to the City treasury.

(Code 2015, § 19-334.2; Ord. No. 2019-289, § 1(19-334.2), 11-12-2019)

Sec. 19-337. Penalties.

Any person violating this division shall, except as otherwise provided, be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-161; Code 2004, § 66-354; Code 2015, § 19-335)

Secs. 19-338—19-358. Reserved.

DIVISION 3. FIREARMS SAFETY TRAINING

Sec. 19-359. Establishment of training program.

The Chief of Police shall establish a program to offer training to citizens of the City in the safe handling and firing of handguns and other firearms.

(Code 1993, § 20-171; Code 2004, § 66-381; Code 2015, § 19-359)

Sec. 19-360. Rules and regulations.

The Chief of Police shall make such rules and regulations as necessary for administering the program of training in handling and firing of handguns and other firearms.

(Code 1993, § 20-172; Code 2004, § 66-382; Code 2015, § 19-360)

Sec. 19-361. Administration of training program.

The Chief of Police and the Department of Police shall be responsible for conducting the program to train citizens in the safe handling and firing of handguns and other firearms.

(Code 1993, § 20-173; Code 2004, § 66-383; Code 2015, § 19-361)

Sec. 19-362. Charges for training program.

The Chief of Police shall fix the fees to be charged each participant for receiving training in the handling and firing of handguns and other firearms at such sum as shall enable the City to recover the estimated direct cost to be incurred in training. The instructors for the program shall be volunteers, and appropriate public and private firing ranges and available facilities, within and outside of the City limits, including classroom space, shall be used for

such training. A person enrolling in a class shall be responsible for providing such firearm as such person desires to receive instruction in its handling and firing, and such person must also either furnish ammunition to be used in the training program or reimburse the City for any ammunition provided by the City.

(Code 1993, § 20-174; Code 2004, § 66-384; Code 2015, § 19-362)

Secs. 19-363—19-382. Reserved.

ARTICLE VIII. CURFEW FOR MINORS*

***State law reference**—Authority to adopt curfew, Code of Virginia, § 15.2-926.

Sec. 19-383. Purposes.

The purposes of the juvenile curfew restrictions imposed under this article are to:

(1) Protect juveniles themselves and other citizens, residents and visitors of the City from the dangers of crimes which occur on sidewalks, streets and public places generally and in establishments open to the public, during late night or early morning hours;

(2) Reduce the amount of criminal activity engaged in by juveniles; and

(3) Promote and enhance parental control over juveniles.

(Code 1993, § 20-195; Code 2004, § 66-416; Code 2015, § 19-383)

Sec. 19-384. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means the period of time between 11:00 p.m. and 5:00 a.m. the following day.

Drug-free zone means those public areas that have been designated and posted by the Chief of Police as locations that are the site of repeated and documented illicit drug activity.

Establishment means any privately owned place of business for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Legal guardian means a person or agency appointed by a court to act in the role of a parent.

Minor means any person under 18 years of age other than an emancipated minor.

Prostitution-free zone means those public areas that have been designated and posted by the Chief of Police as locations that are the site of repeated and documented illicit prostitution activity.

Public place means any street, sidewalk, bridge, alley, alleyway, plaza, park, public grounds, public driveway, public parking lot, public transportation facility, or inside a motor vehicle in or on any such place.

(Code 1993, § 20-196; Code 2004, § 66-417; Code 2015, § 19-384)

Cross reference—Definitions generally, § 1-2.

Sec. 19-385. Offenses.

(a) It shall be unlawful for a minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

(b) It shall be unlawful for a parent or legal guardian of a minor to knowingly permit or by insufficient control to allow the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

(c) It shall be unlawful for the proprietor, manager, or other person having charge or control of an establishment to knowingly allow a minor, other than an employee, to remain upon the premises of the establishment during curfew hours.

(Code 1993, § 20-197; Code 2004, § 66-418; Code 2015, § 19-385)

Sec. 19-386. Drug-free zone and prostitution-free zone curfew offenses.

(a) It shall be unlawful for a minor to be on any street, road, alley, park or other public place located in a designated drug-free zone or a designated prostitution-free zone at any time.

(b) It shall be unlawful for a parent or legal guardian of a minor to knowingly permit or by insufficient control to allow the minor to remain in any public place or on the premises of any establishment within a designated drug-free zone or a designated prostitution-free zone at any time.

(c) It shall be unlawful for the proprietor, manager, or other person having charge or control of an establishment located within a designated drug-free zone or a designated prostitution-free zone to knowingly allow a minor, other than an employee, to remain upon the premises of the establishment at any time.

(Code 1993, § 20-197.1; Code 2004, § 66-419; Code 2015, § 19-386)

Sec. 19-387. Exceptions to restrictions.

(a) Sections 19-385 and 19-386 and the offenses stated therein shall not be applicable in any circumstance in which:

(1) The minor was accompanied by the minor's parent or legal guardian or other adult who has been granted custody of the minor by the minor's parent or legal guardian;

(2) The minor was on a legitimate emergency errand at the direction of the minor's parent or legal guardian, without any detour or stop, or the minor was otherwise involved in a legitimate emergency circumstance;

(3) The minor was engaged in an employment activity or going to or returning home from an employment activity, without detour or stop;

(4) The minor was attending an activity sponsored by a City or State agency or body or a school or a religious or civic organization or was returning to the minor's place of residence therefrom, without detour or stop; or

(5) The minor was within 25 feet of the minor's residence.

(b) Sections 19-385(c) and 19-386(c) and the offenses stated therein shall not be applicable in any circumstance in which the proprietor, manager, or other person having charge or control of an establishment promptly notified the Department of Police that a minor was present on the premises of the establishment during curfew hours and the minor refused to leave.

(c) Section 19-385 and the offenses stated therein shall not be applicable when the minor is:

(1) In interstate travel through, or beginning or terminating in, the City;

(2) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(Code 1993, § 20-198; Code 2004, § 66-420; Code 2015, § 19-387)

Sec. 19-388. Enforcement.

(a) Before taking any enforcement action against a minor under this article, a police officer shall first afford the apparent offender an opportunity to offer proof of age and to establish a lawful reason for being in the public place or establishment.

(b) Any minor taken into custody for a violation of either Section 19-385 or 19-386 shall either be released into the custody of a parent or legal guardian, if reasonably practicable, or shall be taken to a juvenile care center operated by or on behalf of the City to await notification of such responsible adult.

(Code 1993, § 20-199; Code 2004, § 66-421; Code 2015, § 19-388)

Sec. 19-389. Penalties.

A violation of this article by a minor shall be disposed of as provided in Code of Virginia, §§ 16.1-278.4 and 16.1-278.5. A person who violates any section of this article is guilty of a separate offense for each day or part of a day during which the violation is committed. Each offense, upon conviction, shall be punishable by a fine of not more than $500.00 and a mandatory sentence of 20 hours of community service.

(Code 1993, § 20-200; Code 2004, § 66-422; Code 2015, § 19-389)

Secs. 19-390—19-406. Reserved.

ARTICLE IX. DRUG-FREE ZONES*

***State law reference**—Prohibiting sale of drugs in certain areas, Code of Virginia, § 18.2-255.2.

Sec. 19-407. Official findings.

(a) The City Council finds that there is an increasing use of public property within the City for the purpose of flagrant violations of the penal laws relating to controlled substances. The Council also finds that such use continues even after the interdiction by police authorities, with repeated offenses often being committed by the same offenders in the same locations.

(b) The Council finds that this situation seriously interferes with the health and welfare of the general public in the areas of quality of neighborhood life and environment, diminution of property values, safety of the public upon the streets and sidewalks, and increasing costs of law enforcement as a result of these illegal activities.

(c) The Council further finds it in the public interest to prevent conduct on public property which is dangerous to the general public and to empower the appropriate City officials to take corrective action to prevent the use of public areas as a marketplace for the illegal sale and use of controlled substances and to seek the cooperation of the courts in imposing restrictions on certain convicted drug users, possessors, or sellers which would limit their access to certain designated areas while under court-ordered restrictions.

(Code 1993, § 20-210; Code 2004, § 66-456; Code 2015, § 19-407)

Sec. 19-408. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjudicated juvenile means a juvenile found by a court to be either a delinquent, a child in need of services, or a child in need of supervision pursuant to Code of Virginia, Title 16.1, Ch. 11, Art. 9 (Code of Virginia, § 16.1-278 et seq.).

Bona fide resident means a person who has presented sufficient evidence to the court that the person owns, leases, or otherwise lawfully occupies as such person's primary residence a dwelling unit within a drug-free zone.

City courts, sentencing court and *courts* mean the City Circuit Court, City General District Court, and the City Juvenile and Domestic Relations District Court.

Controlled substance crime means any violation of Code of Virginia, Title 18.2, Ch. 7, Art. 1 (Code of Virginia, § 18.2-247 et seq.).

Convicted drug user, possessor, or seller means any person who has pleaded guilty to or been convicted in any court of competent jurisdiction of a violation of those offenses set forth in Code of Virginia, Title 18.2, Ch. 7, Art. 1 (Code of Virginia, § 18.2-247 et seq.).

Court-ordered restriction means a court-imposed condition that is placed on a convicted drug user, possessor, or seller and restricts the convicted drug user's, possessor's, or seller's activity in a drug-free zone for a specified period of time.

Drug-free zone means those public areas that have been designated and posted by the Chief of Police as locations that are the site of repeated and documented illicit drug activity.

Public area means any street, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, public transportation facility, or a doorway or entranceway to any building which abuts any such area or inside a personal motor vehicle in or on any such place.

(Code 1993, § 20-211; Code 2004, § 66-457; Code 2015, § 19-408)

Cross reference—Definitions generally, § 1-2.

Sec. 19-409. Designation of zones.

(a) The Chief of Police may designate certain public areas within the City as a drug-free zone for a period not to exceed 12 consecutive months. Such designations shall be in writing and supported by data and any other relevant information that assist the Chief of Police in making the determination, including, but not limited to, the following factors:

(1) Those areas where the number of arrests for illegal drug activity for the 12-month period preceding the designation is significantly higher than other similarly sized areas of the City;

(2) Those areas where the number of homicides related to the possession or distribution of illegal drugs for the 12-month period preceding the designation is significantly higher than that for other similarly sized areas of the City;

(3) Those areas where there is objective evidence or verifiable information that shows that illegal drugs are being sold and distributed on a public space or public property within the area;

(4) Those areas where the Chief of Police can verify with other reliable information that the health or safety of the residents who live therein is endangered by the purchase, sale, or use of illegal drugs; or

(5) Those areas commonly referred to by law enforcement personnel as high drug areas or open-air drug markets.

(b) The Chief of Police shall notify the general public by publication, the City Council, the City courts and the police precinct commanders of the boundaries of all drug-free zones. In addition, the area which has been designated shall be conspicuously posted with signs identifying it as a drug-free zone.

(Code 1993, § 20-212; Code 2004, § 66-458; Code 2015, § 19-409)

Sec. 19-410. Restrictions.

(a) Upon the recommendation to a court by the Attorney for the Commonwealth or upon a court's own motion, a court within the City may utilize the boundaries of drug-free zones as the basis for imposing restrictions upon an adjudicated juvenile or a convicted drug user, possessor, or seller. Any person who is restricted from entry into any drug-free zone shall be given, as part of such person's sentence, a written description of the boundaries of the drug-free zones.

(b) A sentencing court may grant exceptions or vary the restrictions imposed on an adjudicated juvenile or a convicted drug user, possessor, or seller based upon relevant circumstances, including, but not limited to, the following factors:

(1) A person is a bona fide resident of a drug-free zone prior to exclusion by the court;

(2) A person is a bona fide owner, principal or employee of a place of employment located in one of the drug-free zones;

(3) A person must conduct business with a governmental office or a medical facility located in a drug-free zone; or

(4) A person desires to attend a house of worship located in a drug-free zone.

Any exceptions granted by a court shall be in writing and in the possession of the restricted person while such person is in a drug-free zone.

(Code 1993, § 20-213; Code 2004, § 66-459; Code 2015, § 19-410)

Sec. 19-411. Unlawful entry into zone.

It shall be unlawful for any person who has been ordered by a court to refrain from entry into a drug-free zone or whose activities within a drug-free zone have been otherwise restricted by a court to thereafter enter or be upon those public areas within the drug-free zone, unless the court has authorized an exception to such person as provided by Section 19-410. Any person violating this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 20-214; Code 2004, § 66-460; Code 2015, § 19-411)

Secs. 19-412—19-435. Reserved.

ARTICLE X. TARGETED ENFORCEMENT ZONES

Sec. 19-436. Official findings.

(a) The City Council finds that there is an increasing use of public property within the City for the purpose of flagrant violations of the penal laws relating to prostitution. The Council also finds that such use continues even after the interdiction by police authorities, with repeated offenses often being committed by the same offenders in the same locations.

(b) The Council finds that this situation seriously interferes with the health and welfare of the general public in the areas of quality of neighborhood life and environment, diminution of property values, safety of the public upon the streets and sidewalks, and increasing costs of law enforcement as a result of this illegal activity.

(c) The Council, therefore, finds it in the public interest to authorize and empower the appropriate City officials to take corrective action to prevent the use of public areas as a marketplace for prostitution and to seek the cooperation of the courts in imposing restrictions on persons convicted of prostitution which would limit their access to certain public property for the purpose of engaging in dangerous, offensive, and illegal activity.

(Code 1993, § 20-221; Code 2004, § 66-491; Code 2015, § 19-436)

Sec. 19-437. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjudicated juvenile means a juvenile found by a court to be either a delinquent, a child in need of services, or a child in need of supervision pursuant to Code of Virginia, Title 16.1, Ch. 11, Art. 9 (Code of Virginia, § 16.1-278 et seq.).

Bona fide resident means a person who has presented sufficient evidence to the court that the person owns, leases, or otherwise lawfully occupies as such person's primary residence a dwelling unit within a targeted enforcement zone.

City courts, sentencing court and *courts* mean the City Circuit Court, City General District Court, and the City Juvenile and Domestic Relations District Court.

Court-ordered restriction means a court-imposed condition that is placed on an adjudicated juvenile or a person who has pleaded to or been convicted of a prostitution offense, which restricts the juvenile's or person's activity in a targeted enforcement zone for a mandatory period.

Person convicted of prostitution means any person who has pleaded to or been convicted of a violation of Section 19-206 or Code of Virginia, § 18.2-346.

Public area means any street, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, public transportation facility, or a doorway or entranceway to any building which abuts any such area or inside a personal motor vehicle in or on any such place.

Targeted enforcement zone means those public areas that have been designated and posted by the Chief of Police as locations that are the site of repeated and documented illicit prostitution activity.

(Code 1993, § 20-222; Code 2004, § 66-492; Code 2015, § 19-437; Ord. No. 2006-206-228, § 1, 9-11-2006)

Cross reference—Definitions generally, § 1-2.

Sec. 19-438. Designation of zone.

(a) The Chief of Police may designate certain public areas within the City as a targeted enforcement zone for a period not to exceed 12 consecutive months. Such designations shall be in writing and supported by data and any other relevant information that assist the Chief of Police in making the determination, including, but not limited to, the following factors:

(1) Those areas where the number of arrests for illegal activity for the 12-month period preceding the designation is significantly higher than other similarly sized areas of the City;

(2) Those areas where there is objective evidence or verifiable information that shows that solicitation for

prostitution is occurring on public areas within the area; or

(3) Those areas where the Chief of Police can verify with other reliable information that the health and welfare of residents who live therein is disrupted by criminal activity.

(b) The Chief of Police shall notify the City Council, the City courts and the police precinct commanders of the boundaries of all targeted enforcement zones. In addition, the area which has been designated shall be conspicuously posted with signs identifying it as a targeted enforcement zone.

(Code 1993, § 20-223; Code 2004, § 66-493; Code 2015, § 19-438; Ord. No. 2006-206-228, § 1, 9-11-2006)

Sec. 19-439. Restrictions.

(a) Upon the recommendation to a court by the attorney for the Commonwealth or upon a court's own motion, a court within the City may utilize the boundaries of targeted enforcement zones as the basis for imposing restrictions upon an adjudicated juvenile or a convicted person. Any person who is restricted from entry into any targeted enforcement zone shall be given, as part of such person's sentence, a written description of the boundaries of the targeted enforcement zones.

(b) A sentencing court may grant exceptions or vary the restrictions imposed on an adjudicated juvenile or a convicted person based upon relevant circumstances, including, but not limited to, the following factors:

(1) The person is a bona fide resident of the targeted enforcement zone prior to exclusion by the court;

(2) The person is a bona fide owner, principal or employee of a place of employment located in one of the designated targeted enforcement zones;

(3) The person must conduct business with a governmental office or medical facility in the targeted enforcement zone; or

(4) The person desires to attend a house of worship in the designated targeted enforcement zone.

(Code 1993, § 20-224; Code 2004, § 66-494; Code 2015, § 19-439; Ord. No. 2006-206-228, § 1, 9-11-2006)

Sec. 19-440. Unlawful entry on public property.

It shall be unlawful for a person convicted of a prostitution offense who is the subject of a court-ordered restriction to enter or be upon those public areas in a targeted enforcement zone, unless the court has authorized an exception as provided in Section 19-439.

(Code 1993, § 20-225; Code 2004, § 66-495; Code 2015, § 19-440; Ord. No. 2006-206-228, § 1, 9-11-2006)

Sec. 19-441. Violations.

Violations of this article shall be a Class 1 misdemeanor.

(Code 1993, § 20-225; Code 2004, § 66-496; Code 2015, § 19-441)

Secs. 19-442—19-465. Reserved.

ARTICLE XI. PARI-MUTUEL WAGING SATELLITE FACILITIES*

***State law reference**—Horse racing and pari-mutuel wagering, Code of Virginia, § 59.1-364 et seq.

Sec. 19-466. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Horse racing means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.

Pari-mutuel wagering means The system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law, and includes pari-mutuel wagering on historical horse racing and simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

Satellite facility means all areas of the property, at which simulcast horse racing is received for the purposes of pari-mutuel wagering, and any additional areas designated by the State Racing Commission.

(Code 1993, § 20-231; Code 2004, § 66-526; Code 2015, § 19-466)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 59.1-365.

Sec. 19-467. Juveniles prohibited.

No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this chapter unless such person is 18 years of age or older. No person shall accept any wager from a minor. No person shall be admitted into a satellite facility if such person is under 18 years of age, unless accompanied by one of his parents or his legal guardian. A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1993, § 20-232; Code 2004, § 66-527; Code 2015, § 19-467)

State law reference—Similar provisions, Code of Virginia, § 59.1-403.

Secs. 19-468—19-487. Reserved.

ARTICLE XII. NEIGHBORHOOD SAFETY DISTRICTS

Sec. 19-488. Purpose.

The purpose of this article is to authorize and provide for the establishment of neighborhood safety districts designed to combine increased citizen involvement with increased activity by the Department of Police and other City agencies to eliminate open-air drug markets and other drug-related criminal activity in the City.

(Code 2004, § 66-541; Code 2015, § 19-488; Ord. No. 2004-143-143, § 1(20-241), 5-24-2004)

Sec. 19-489. Designation.

Specific areas of the City that constitute open-air drug markets shall be designated as neighborhood safety districts according to the following procedure:

(1) *Application.* Any citizen who resides within a definable area that meets the criteria for designation listed below may submit an application to the Chief of Police requesting the designation of that area as a neighborhood safety district and the implementation of the programs for which this article provides in that area. The Chief of Police shall provide forms for such applications, and all applications shall be made on such forms.

(2) *Criteria for designation.* In order for the City to designate a neighborhood safety district, the Chief of Police must determine that the application submitted contains sufficient evidence of the following:

   a. The proposed neighborhood safety district has clearly defined geographic boundaries;

   b. The proposed neighborhood safety district is the site of repeated and documented criminal activity related to the distribution, possession or use of illegal drugs, as shown by any of the following:

      1. The number of arrests for illegal drug activity for the 12-month period preceding the submission of the application is significantly higher than other similarly sized areas of the City;

      2. The number of homicides related to the possession or distribution of illegal drugs for the 12-month period preceding the submission of the application is significantly higher than that for other similarly sized areas of the City;

      3. Objective evidence or verifiable information shows that illegal drugs are being sold and distributed within the proposed neighborhood safety district;

      4. Reliable information demonstrates that the health or safety of the residents who live in the proposed neighborhood safety district is endangered by the sale of illegal drugs and other criminal activity; or

      5. Law enforcement personnel commonly refer to the proposed neighborhood safety district as

a "high drug area" or an "open-air drug market";

c. A significant number of the residents living within the proposed neighborhood safety district have indicated a commitment to engage in citizen activity as described in Section 19-491; and

d. Such other criteria that qualifies an area for designation as a neighborhood safety district as the Chief of Police may determine and publicize.

(3) *Authority to make designation.* Within 15 calendar days of receipt of an application, the Chief of Police shall determine whether an application meets the criteria of subsection (2) of this section. If the Chief of Police determines that an application meets the criteria, he shall immediately report such determination to the Chief Administrative Officer. Within five days of the Chief Administrative Officer's receipt of the Chief's report, the Chief Administrative Officer shall designate the geographic area proposed in the application as a neighborhood safety district subject to the programs for which this article provides and shall assign a coordinator with authority to coordinate all plan development and other City activities required by this article for that neighborhood safety district. The Chief Administrative Officer shall make such designation and assignment in writing and shall distribute such designation and assignment to the citizen or citizens who submitted the application and to all agency heads.

(Code 2004, § 66-542; Code 2015, § 19-489; Ord. No. 2004-143-143, § 1(20-242), 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 19-490. District plan.

(a) *Development.* Following the Chief Administrative Officer's designation, the coordinator shall assemble representatives from the Department of Police, the Department of Planning and Development Review, and other City agencies as deemed appropriate to develop a plan for the elimination of open-air drug market activity and other criminal activity in the neighborhood safety district in accordance with the provisions of this article. During all phases of the development of the plan, the coordinator and the representatives of City agencies assisting him shall consult with the citizen or citizens who sought the designation of the neighborhood safety district to develop parts of the plan requiring citizen activity. Within 30 days of the Chief Administrative Officer's designation, the coordinator shall submit to the Chief Administrative Officer for his approval the plan required under this section. Such plan shall be implemented immediately following the Chief Administrative Officer's approval.

(b) *Elements.* The plan shall contain, at a minimum, the following elements agreed upon by the citizen or citizens submitting the application, other residents of the neighborhood safety district who choose to participate, and the coordinator:

(1) Citizen activity in accordance with Section 19-491;

(2) Additional law enforcement activity in accordance with Section 19-492(a);

(3) Support activity from other City agencies in accordance with Section 19-492(b);

(4) A resource allocation plan in accordance with Section 19-492(c);

(5) A list of measurable program goals designed to lead to the elimination of open-air drug markets and other criminal activity in the neighborhood safety district in accordance with Section 19-493; and

(6) Such other elements as the coordinator or City agencies believe would advance the purposes of this article within the particular neighborhood safety district.

(Code 2004, § 66-543; Code 2015, § 19-490; Ord. No. 2004-143-143, § 1(20-243), 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 19-491. Citizen activity.

Each plan shall provide for specific actions to be undertaken by residents organized within the neighborhood safety district to further the purposes of this article. Such activities may be undertaken with City support, if appropriate, and may include, but need not be limited to, the following:

(1) Agreement by neighborhood groups, businesses, churches, schools, and other organizations that agree to clear debris, remove graffiti, paint walls, repair playground equipment, and plant trees and gardens at a specific street corner or park;

(2) Agreement by residents to spend a set portion of a Saturday or weekend working to improve the physical appearance of their yards, homes, and adjacent areas;

(3) Establishment of organized citizen patrols which will observe illicit activity and report observations to the police;

(4) Repeated marches and vigils at the locations of open-air drug markets during periods of peak illegal drug activity;

(5) Community events such as block barbecues staged at the locations of open-air drug markets;

(6) Attending and monitoring trials, hearings and other court proceedings resulting from arrests made in the neighborhood safety district, and reporting of the results of such proceedings to the City's coordinator; and

(7) Such other activities to further the purposes of this article as the participating residents and the coordinator may agree are appropriate.

(Code 2004, § 66-544; Code 2015, § 19-491; Ord. No. 2004-143-143, § 1(20-244), 5-24-2004)

Sec. 19-492. City activity.

(a) *Police activity.* Each plan shall provide for specific actions to be undertaken in the neighborhood safety district by the Department of Police to further the purposes of this article. Such activities may include, but need not be limited to, the following:

(1) Increased police presence in the neighborhood safety district to respond to organized citizen patrols when such groups are patrolling;

(2) Police escorts for marches and vigils held in open-air drug markets during periods of peak illegal drug activity;

(3) Establishment of a semi-permanent police command post within the neighborhood safety district;

(4) Monitoring and reporting the hearing times and disposition of arrests made within the neighborhood safety district to the residents thereof; and

(5) Such other activities to further the purposes of this article as the Chief of Police and the coordinator may agree are appropriate.

(b) *Activity of other City agencies.* Each plan shall provide for specific actions to be undertaken in the neighborhood safety district by the appropriate City agency to further the purposes of this article. Such activities may include, but need not be limited to, the following:

(1) Priority repair and replacement of lights that have been broken or have had their wiring cut;

(2) Installation of surveillance cameras or other monitoring devices within the neighborhood safety district;

(3) Increased enforcement of building, fire, health and other regulations within the neighborhood safety district; and

(4) Such other activities to further the purposes of this article as City agencies and the coordinator may agree are appropriate.

(c) *Resource allocation.* Each plan shall include an itemization of specific allocations of human and material resources that City agencies will devote to the implementation of the plan.

(Code 2004, § 66-545; Code 2015, § 19-492; Ord. No. 2004-143-143, § 1(20-245), 5-24-2004)

Sec. 19-493. Stabilization.

(a) *Program goals.* It is the goal of the City that active drug markets and drug-related crime be reduced by at least ten percent each quarter of a fiscal year in all neighborhood safety districts until the affected area is no longer designated as a neighborhood safety district. Each plan may set higher goals appropriate for a particular neighborhood safety district as agreed upon by the citizen or citizens submitting the application, other residents of the neighborhood safety district who choose to participate, and the coordinator.

(b) *Measurement of goal achievement.* Each plan shall state criteria for the measurement of the success of the program set forth in this article. Such criteria shall be measurable empirically in such a way that progress toward the goals for which subsection (a) of this section provides may be statistically demonstrated.

(c) *Reporting.* The Chief Administrative Officer shall make quarterly reports to the City Council on the status of the program set forth in this article. Such reports shall include a list of all the neighborhood safety district applications received and designations made, the goals for each district, and a chronological statistical measurement of the progress toward each goal.

(d) *Removal of district designation.* Three months after the Chief Administrative Officer has submitted a report to the City Council indicating that the program goals have been met and illegal drug activity has been eliminated within a particular neighborhood safety district, the Chief Administrative Officer may remove the designation of that neighborhood safety district as such. Following the removal of the neighborhood safety district designation, the provisions of this article concerning City activity and the plan for such neighborhood safety district shall no longer apply to such area.

(Code 2004, § 66-546; Code 2015, § 19-493; Ord. No. 2004-143-143, § 1(20-246), 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004)

Chapter 20

PORTS AND HARBORS*

***Charter reference**—Authority of City to regulate use of harbors, etc., § 2.03(o); inclusion of harbor in master plan of City, § 17.01(a); design of harbors by Planning Commission, § 17.05.

Cross reference—City-owned real estate, Ch. 8; Downtown Riverfront Canal Area, § 8-474 et seq.; environment, Ch. 11; floodplain management, erosion and sediment control, and drainage, Ch. 14.

State law reference—Ports and harbors generally, Code of Virginia, § 62.1-6 et seq.

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. PORT AND HARBOR FACILITIES GENERALLY*

***State law reference**—Local regulation of watercraft, Code of Virginia, § 29.1-744.

Sec. 20-19. Authority of Director of Public Works.

The Director of Public Works shall have general management of the harbor and the port and harbor facilities of the City and the enforcement of the laws, ordinances, rules and regulations relating thereto. However, this section shall not apply to the Port of Richmond while leased to the Virginia Port Authority.

(Code 1993, § 21-1; Code 2004, § 70-31; Code 2015, § 20-19; Ord. No. 2011-131-131, § 4, 6-27-2011)

Cross reference—Director of Public Works, § 2-426.

Sec. 20-20. Accounts and records.

The Director of Public Works shall cause to be kept such accounts and financial records in relation to the work incident to the improvement of the James River and the maintenance of the harbor of Richmond and in such manner as the Director of Finance may prescribe and such other accounts and records as may be necessary to facilitate the efficient prosecution of the work. However, this section shall not apply to the Port of Richmond while leased to the Virginia Port Authority.

(Code 1993, § 21-2; Code 2004, § 70-32; Code 2015, § 20-20; Ord. No. 2011-131-131, § 4, 6-27-2011)

Sec. 20-21. Responsibility for construction, reconstruction, maintenance and repair.

The construction, reconstruction, maintenance and repair of the port and harbor facilities physical plant shall be the exclusive responsibility of the Department of Public Works. However, this section shall not apply to the Port of Richmond while leased to the Virginia Port Authority.

(Code 1993, § 21-3; Code 2004, § 70-33; Code 2015, § 20-21; Ord. No. 2011-131-131, § 4, 6-27-2011)

Sec. 20-22. Harbor limits.

The harbor of the City shall embrace and include that part of the James River extending southwardly from the head of navigation to the southernmost limits of the City and the portion of the James River and Kanawha Canal and dock between 17th Street and the James River commonly known as the City dock. However, this section shall not apply to the Port of Richmond while leased to the Virginia Port Authority.

(Code 1993, § 21-4; Code 2004, § 70-34; Code 2015, § 20-22; Ord. No. 2011-131-131, § 4, 6-27-2011)

Sec. 20-23. Appointment and duties of Harbormaster.

There shall be appointed by the Director of Public Works one Harbormaster. The Harbormaster shall maintain an office in some convenient place to be designated by the Director of Public Works. All fees received by the Harbormaster shall be paid into the City treasury. The Harbormaster shall perform the duties as set forth in this chapter.

(Code 1993, § 21-5; Code 2004, § 70-35; Code 2015, § 20-23)

Cross reference—Harbormaster, § 2-57 et seq.

State law reference—Authority of city to appoint harbormaster, Code of Virginia, § 62.1-163.

Sec. 20-24. Register of vessels.

The Harbormaster shall keep a register of the type, name, burthen and master's name of each vessel coming into the harbor and the port to which the vessel belongs and that from which the vessel last came. Such register shall be open for public inspection.

(Code 1993, § 21-6; Code 2004, § 70-36; Code 2015, § 20-24)

Sec. 20-25. Harbormaster's right of entry for purpose of inspecting vessels.

The Harbormaster is authorized to enter upon and inspect any vessel in the harbor to ascertain the kind and quantity of merchandise or cargo thereon, and no person shall deny the Harbormaster admission to such vessel for such purpose.

(Code 1993, § 21-7; Code 2004, § 70-37; Code 2015, § 20-25)

Sec. 20-26. Reports of masters, owners or agents of arrival and departure of vessels.

The master, owner or agent of a vessel arriving in the harbor of the City shall report to the Harbormaster immediately upon such arrival, and before leaving the harbor the master, owner or agent shall report its clearance to the Harbormaster.

(Code 1993, § 21-8; Code 2004, § 70-38; Code 2015, § 20-26)

Sec. 20-27. Obstruction prohibited; permission required for vessels to lie more than two abreast.

No vessel shall anchor in the channel of the harbor in such a manner as to prevent or obstruct the passage of other vessels or lie at any wharf in the harbor more than two abreast without first obtaining the consent of the Harbormaster.

(Code 1993, § 21-9; Code 2004, § 70-39; Code 2015, § 20-27)

Sec. 20-28. Order to rig in booms and davits.

When ordered to do so by the Harbormaster, the owner or other person in charge of a vessel shall have all booms and davits on the vessel rigged in.

(Code 1993, § 21-10; Code 2004, § 70-40; Code 2015, § 20-28)

Sec. 20-29. Order to slacken or cast off moorings or shift vessel.

The master or person in charge of any vessel with mooring lines extending across a dock so as to obstruct passing vessels, when ordered by the Harbormaster, shall cause the moorings to be slackened, cast off or the vessel to be shifted.

(Code 1993, § 21-11; Code 2004, § 70-41; Code 2015, § 20-29)

Sec. 20-30. Moving of vessels not taking on or discharging cargo.

Vessels lying alongside a wharf and not engaged in taking on or discharging cargo shall make way for and permit other vessels to come inside next to the wharf to load or unload cargo.

(Code 1993, § 21-12; Code 2004, § 70-42; Code 2015, § 20-30)

Sec. 20-31. Failure to move vessel upon order of Harbormaster.

If the master or person in charge of any vessel refuses to move the vessel when so ordered by the Harbormaster, the Harbormaster shall cause the vessel to be moved at the cost and risk of the master or owner of such vessel, and the charges therefor shall be recoverable by civil action against the master or owner thereof.

(Code 1993, § 21-13; Code 2004, § 70-43; Code 2015, § 20-31)

Sec. 20-32. Depositing dunnage, stone, ashes, rubbish, refuse or debris.

No person shall place or deposit dunnage, stone, ashes, dirt, rubbish, other refuse material or debris, whether

in a solid or liquid state, into the waters of the harbor or into any stream discharging into the harbor or upon the margin of the James River or any island therein near the margin thereof so that such may be carried into the harbor of the City. However, this section shall not apply to matter flowing from streets and sewers and passing therefrom in a liquid state.

(Code 1993, § 21-14; Code 2004, § 70-44; Code 2015, § 20-32)

Sec. 20-33. Removal of sunken vessels.

Any person who owns or who is in charge of any vessel that sinks or that has sunk and is laying in and obstructing the harbor shall commence the immediate removal of the vessel and prosecute such removal diligently until completed. Upon the failure, refusal or neglect of such person to comply with this section, the Department of Public Works shall remove or cause the removal of such obstruction from the harbor, and the cost and expense incurred on account thereof shall be collected from such person.

(Code 1993, § 21-15; Code 2004, § 70-45; Code 2015, § 20-33)

Sec. 20-34. Permission required to occupy private berths.

No person shall permit a vessel to occupy the private berth of any other vessel without permission from the owner of the berth.

(Code 1993, § 21-16; Code 2004, § 70-46; Code 2015, § 20-34)

Sec. 20-35. Interfering with Harbormaster or refusing to obey orders.

It shall be unlawful for the master, owner or other person in charge of any vessel to refuse or neglect to comply with the orders of the Harbormaster or to interfere with the Harbormaster in the discharge of any duty.

(Code 1993, § 21-17; Code 2004, § 70-47; Code 2015, § 20-35)

Sec. 20-36. Maintenance of wharves and other structures.

The owner, occupant and lessee of any wharf or other structure in the harbor shall keep the wharf or structure in good repair. Whenever, in the judgment of the Harbormaster, any wharf is in a dangerous condition, the Harbormaster shall notify the owner, occupant or lessee thereof in writing. Within five days thereafter, the owner, occupant or lessee thereof shall place such wharf or structure in a safe condition. However, this section shall not apply to the Port of Richmond while leased to the Virginia Port Authority.

(Code 1993, § 21-18; Code 2004, § 70-48; Code 2015, § 20-36; Ord. No. 2011-131-131, § 4, 6-27-2011)

Sec. 20-37. Fire alarm signal from vessels.

If a fire occurs on board any vessel in the harbor, such vessel shall sound five prolonged blasts on the whistle or siren as an alarm indicating such fire. Such signal shall be repeated at intervals to attract attention and shall not be used for any other purpose while the vessel is in the harbor. Such signal shall not be used as a substitute for but shall be used in addition to other means of reporting a fire. The term "prolonged blast," as used in this section, shall mean a blast of from four to six seconds' duration.

(Code 1993, § 21-19; Code 2004, § 70-49; Code 2015, § 20-37)

Sec. 20-38. Speed.

(a) Any vessel coming into, passing through or departing from the harbor shall retard its speed to one-half its usual rate, and in no case shall a vessel of over 20 tons capacity proceed at a greater speed than six statute miles per hour.

(b) The maximum speed so fixed in subsection (a) of this section shall not be construed as absolving any master or other person in charge of such vessel from using all reasonable care in so regulating its speed that no damage will result to any vessel under way, anchored or berthed in the harbor.

(Code 1993, § 21-20; Code 2004, § 70-50; Code 2015, § 20-38)

Sec. 20-39. Vessels laden with explosives and other hazardous cargo.

Vessels laden with explosives or other hazardous cargo shall not berth at any pier, dock, wharf or other harbor

structure without first obtaining a written permit from the Harbormaster. Vessels so laden shall, while in the harbor, display a red flag and shall comply with all laws and ordinances concerning such explosives or other hazardous cargo.

(Code 1993, § 21-21; Code 2004, § 70-51; Code 2015, § 20-39)

Cross reference—Environment, Ch. 11; fire prevention and protection, Ch. 13.

State law reference—Virginia Statewide Fire Prevention Code Act, Code of Virginia, § 27-94 et seq.; explosives generally, Code of Virginia, § 59.1-137 et seq.; municipal regulations authorized, Code of Virginia, § 59.1-140.

Sec. 20-40. Fees for use of intermediate terminal dock below lock gates.

(a) Any person desiring to use the intermediate terminal dock below the lock gates shall pay the rates as Follows:

Intermediate terminal dock rates, per day:		
(1)	Commercial boat storage	$10.00
(2)	Commercial boat in operation	$5.00
(3)	Pleasure boat storage	$10.00
(4)	Locking, per lockage	$5.00

(b) Such fees shall be payable at the time the service is rendered, unless credit arrangements satisfactory to the Director of Public Works or a duly authorized representative are made. When credit is extended, payment of the fees shall be made within 15 days after a statement thereof is delivered or mailed to the person for whom the service was rendered.

(Code 1993, § 21-22; Code 2004, § 70-52; Code 2015, § 20-40; Ord. No. 2013-36-40, §§ 1, 2, 3-25-2013)

Sec. 20-41. Responsibility for vessels passing through locks.

The owner, master or other person in charge of a vessel desiring to enter or leave the City dock shall be responsible for taking it through the lock gates. No City employee shall move any vessel through the locks, except vessels owned by the City.

(Code 1993, § 21-23; Code 2004, § 70-53; Code 2015, § 20-41)

Sec. 20-42. Responsibility of owners of vessels when using City dock.

All vessels using the City dock shall do so at the sole risk of the owner of the vessel. The City shall not be responsible for any damage to such vessel while using the City dock from whatever cause, including fire, theft, ice or freshets.

(Code 1993, § 21-24; Code 2004, § 70-54; Code 2015, § 20-42)

Sec. 20-43. Permission required prior to dredging in harbor.

No dredging shall be done in any of the waters of the harbor of the City without first obtaining written permission from the Director of Public Works, who shall have power to designate the place at which the dredged materials shall be dumped. However, this section shall not apply to the Port of Richmond while leased to the Virginia Port Authority.

(Code 1993, § 21-25; Code 2004, § 70-55; Code 2015, § 20-43; Ord. No. 2011-131-131, § 4, 6-27-2011)

Chapter 21

PUBLIC PROCUREMENT*

***Cross reference**—Administration, Ch. 2; Department of Procurement Services, § 2-593 et seq.; finance, Ch. 12.

State law reference—Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.

ARTICLE I. IN GENERAL

Sec. 21-1. Purpose.

The purpose of this chapter is to:

(1) Increase public confidence in purchasing by this City;

(2) Encourage competition in public purchasing among vendors or contractors;

(3) Administer fairly and equitably purchasing policies among bidders; and

(4) Obtain high quality goods and services at the lowest possible price within the specified time.

(Code 1993, § 22.1-1; Code 2004, § 74-1; Code 2015, § 21-1)

Sec. 21-2. Applicability.

(a) This chapter applies to contracts for the procurement of goods, services, insurance and construction entered into by the City involving every expenditure for public purchasing from nongovernmental sources.

(b) When the procurement involves the expenditure of Federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory Federal laws and regulations that are not reflected in this chapter. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift or bequest which are otherwise consistent with law.

(Code 1993, § 22.1-2; Code 2004, § 74-2; Code 2015, § 21-2)

Sec. 21-3. Exemptions.

(a) The requirements of this chapter shall not apply to the following:

(1) Purchases by the Department of Social Services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

(2) Procurement transactions involving the expenditure of Federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in Federal laws or regulations not in conformance with this chapter, where the Director has determined in writing, which states the specific section of this chapter in conflict with the conditions of the grant or contract, that acceptance of the grant or contract funds under the applicable conditions is in the public interest and where the City complies with such Federal requirements.

(3) The purchase of goods or services that are produced or performed by:

a. Persons, or in schools or workshops, under the supervision of the State Department for the Blind and Vision Impaired; or

b. Employment services organizations that offer transitional or supported employment services serving individuals with disabilities.

(4) The purchase of legal services or expert witnesses or other services associated with litigation or regulatory proceedings, including the printing of legal briefs.

(5) The purchase of insurance or electric utility services if purchased through an association of which the City is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with public bodies similar to the City, provided such association has procured the insurance or electric utility services by use of competitive principles and

provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public and the basis for this determination.

(6) Any purchase for the administration of public assistance and social services programs as defined in Code of Virginia, § 63.2-100; any purchase for a community services board as defined in Code of Virginia, § 37.2-100; and any purchase of services under the:

a. Children's Services Act, Code of Virginia, § 2.2-5200 et seq.; or

b. Virginia Juvenile Community Crime Control Act, Code of Virginia, § 16.1-309.2 et seq.;

for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient; however, contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of this chapter.

(7) Contracts for or purchases of equipment, services, the printing of ballots or statements of results, or other materials essential to the conduct of a general, primary or special election.

(8) Purchases from Virginia Correctional Enterprises, from the State Department of General Services Division of Purchases and Supply and from the State Department of Transportation.

(9) Purchases for special police work when the Chief of Police certifies to the Director that items are needed for undercover police operations.

(10) Scientific instruments and equipment, medicines and drugs, legal and scientific books and periodicals, and professional books and periodicals.

(11) Manuscripts, maps, charts, sheet music, phonograph records, compact video or audio discs, video or audio cassette tapes, books, pamphlets and periodicals.

(12) Such perishable articles as may be designated in the rules and regulations established by ordinance.

(13) Association dues and membership in professional associations for City agencies and employees.

(14) Expenses for City-sponsored:

a. Conference-related room deposits;

b. Hotel and motel lodging;

c. Conference registration;

d. Banquets; and

e. Catering.

(15) Advertising in publications.

(16) Sculptures, paintings or other works of art.

(17) Purchases on existing contracts established by professional organizations that the City may use by virtue of its membership in such organizations.

(18) Purchases on existing contracts established by other public bodies.

(19) Services purchased by the Richmond Retirement System related to the management, purchase, or sale of investments authorized by this section, including, but not limited to, actuarial services, when governed by the standard of care set forth in Code of Virginia, § 51.1-803.

(b) Notwithstanding subsection (a) of this section, the requirements of Section 21-9 concerning prompt payment of bills and Article VIII of this chapter concerning ethics in public contracting shall apply to any procurement transaction listed in this section.

(c) The Director of Procurement Services may delegate to the Director of Public Utilities the authority to purchase natural gas and to arrange for the transportation of natural gas without requiring that sealed bids be received pursuant to invitations extended as set out in Section 21-47.

(Code 1993, § 22.1-67; Code 2004, § 74-3; Code 2015, § 21-3)

State law reference—Similar provisions, Code of Virginia, §§ 2.2-4343—2.2-4346.

Sec. 21-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best value, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to the City's needs.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Competitive negotiation means a method of contractor selection set forth in Section 21-67 or Section 21-68.

Competitive sealed bidding means a method of contractor selection set forth in Sections 21-47, 21-52, 21-54, and 21-55.

Construction means building, altering, repairing, improving or demolishing any structure, building, road, street or highway, and any draining, dredging, excavation, grading or similar work upon real property.

Construction management contract means a contract in which a party is retained by the City to coordinate and administer contracts for construction services for the benefit of the City, and may also include, if provided in the contract, the furnishing of construction services to the City.

Contract means all types of City agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.

Contract modification/supplement means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provision of any contract accomplished by mutual action of the parties to the contract.

Contractor means any person, company, corporation, or partnership having a contract with the City or a using agency thereof.

Cost analysis means the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

Cost data means factual information concerning the cost of labor, material, overhead, and other cost elements, which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

Cost reimbursement contract means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and this chapter and a fee or profit, if any.

Design-build contract means a contract between the City and another party in which the party contracting with the City agrees to both design and build the structure, or other item specified in the contract.

Direct or indirect participation means involvement through decision, approval, disapproval, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity.

Director means the Director of Procurement Services of the City.

Disadvantaged business means a business meeting the definitions set forth in the Code of Federal Regulations pertaining to the applicable Federal grant program.

Emerging small business means a business that:

(1) Has been certified by the Office of Minority Business Development for a period of up to seven years;

(2) Has annual gross receipts of $500,000.00 or less for each of its three fiscal years preceding application for such certification if engaged primarily in the construction business, or of $250,000.00 or less if engaged primarily in a nonconstruction business;

(3) Has fewer than ten full-time, permanent employees;

(4) Is not a subsidiary of another business and does not belong to a group of businesses owned and controlled by the same individuals;

(5) Has its principal place of business entirely within the boundaries of a City enterprise zone;

(6) Possesses a City business license; and

(7) Pays personal property, real estate, and business taxes, as applicable, to the City.

Employment services organization means an organization that provides employment services to individuals with disabilities that is an approved Commission on the Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Virginia Department for Aging and Rehabilitative Services.

Good faith minority business enterprise and emerging small business participation efforts means the sum total of efforts by a particular business to provide for the equitable participation of minority business enterprises or emerging small business subcontractors. For past efforts, this sum total shall be comprised of the record of participation by minority business enterprises and emerging small businesses through subcontracting or joint ventures. For future efforts, it shall be comprised of such efforts which are proposed to allow equitable participation of minority business enterprises or emerging small business subcontractors.

Goods means all material, equipment, supplies, printing and automated data processing hardware and software.

Informality means a minor defect or variation of a bid or proposal from the exact requirements of the invitation for bids or the request for proposals which does not affect the quality, quantity or delivery schedule for the goods, services or construction being procured.

Insurance means a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

Intent to award means an intent by the City to accept a bid or proposal.

Invitation for bids means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Job order contracting means a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing, in which the contractor is selected through either competitive sealed bidding or competitive negotiation depending on the needs of the City, a minimum amount of work may be specified in the contract, and the contract term and the project amount do not exceed the limitations specified in Section 21-73.

Minority business enterprise means a business, at least 51 percent of which is owned and controlled or 51 percent minority-owned and operated by minority group members or, for a stock corporation, at least 51 percent of the stock which is owned and controlled by minority group members.

Minority group members means citizens of the United States who are Blacks, Hispanics, Asians, Indians, Eskimos or Aleuts.

Nominal value means a value so small, slight, or the like, in comparison to what might properly be expected, as scarcely to be entitled to the same, but in no case to be more than $30.00.

Nonprofessional services means any services not specifically identified as professional services in the definition of professional services.

Professional services means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering.

Public body means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter.

Public contract means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

Qualified products list means an approved list of goods, services or construction items described by model or catalog number that, prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

Recycled paper means any paper having a total weight consisting of not less than 50 percent recovered materials, as that term is defined for purposes of purchasing paper and paper products in 40 CFR 247.3 (2001), as amended.

Request for proposals means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Request for qualifications means all documents, whether attached or incorporated by reference, utilized for soliciting qualification statements.

Responsible bidder and *responsible offeror* mean a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will ensure good faith performance, and who has been prequalified, if required.

Responsive bidder means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

Services means any work performed by an independent contractor which does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

Specification means any written description of the physical or functional characteristics or of the nature of a good, service or construction item. The term "specification" may include a description of any requirement for inspecting, testing, or preparing a good, service or construction item for delivery.

Using agency means any department, agency, bureau, board, commission, court, City jail or jail forum or other unit in the City government requiring goods, services, insurance or construction as provided for in this chapter.

(Code 1993, § 22.1-3; Code 2004, § 74-4; Code 2015, § 21-4; Ord. No. 2006-134-105, § 1, 5-8-2006; Ord. No. 2016-197, § 1, 9-12-2016; Ord. No. 2017-099, § 1, 6-12-2017)

Cross reference—Definitions generally, § 1-2.

State law reference—Definitions, Code of Virginia, § 2.2-4301.

Sec. 21-5. Public inspection of certain records.

(a) Except as provided in this section, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.

(b) Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.

(c) Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the public body decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

(d) Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the public body decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

(e) Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

(f) Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Section 21-46 shall not be subject to the Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.; however, the bidder, offeror or contactor shall:

(1) Invoke the protections of this section prior to or upon submission of the data or other materials;

(2) Identify the data or other materials to be protected; and

(3) State the reasons why protection is necessary.

A bidder, offeror or contractor shall not designate as trade secrets or proprietary information (i) an entire bid, proposal, or prequalification application; (ii) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (iii) line item prices or total bid, proposal, or prequalification application prices.

(Code 1993, § 22.1-38; Code 2004, § 74-5; Code 2015, § 21-5; Ord. No. 2018-152, § 1, 5-21-2018)

State law reference—Similar provisions, Code of Virginia, § 2.2-4342.

Sec. 21-6. Financing arrangements.

As a requisite for entering into any contract for the procurement of goods, services, insurance, construction or other purchase to be made pursuant to this chapter, the approval of the Director of Finance shall be obtained prior to agreeing to the terms of any contract that will involve lease-purchase, installment payments, payment of interest on deferred balances or any other means of financing a deferred balance of the cost of purchase of such goods or services.

(Code 1993, § 22.1-2.1; Code 2004, § 74-6; Code 2015, § 21-6)

Charter reference—Certification of funds, § 6.20.

Sec. 21-7. Unauthorized purchases.

Except as provided in this chapter, no official, elected or appointed, or any employee shall purchase or contract for any goods, services, insurance or construction within the purview of this chapter other than by and through the Director. Any purchase order or contract made contrary to this chapter or any purchase order or contract made when sufficient funds are not available is not approved, and the City shall not be bound thereby.

(Code 1993, § 22.1-17; Code 2004, § 74-7; Code 2015, § 21-7)

Sec. 21-8. Purchasing of recycled materials.

In determining the award of any contract for paper or paper products to be purchased for use by City agencies, the Department of Procurement Services shall award to the lowest responsible and responsive bidder offering recycled paper of a quality suitable for the purpose intended, so long as the bid price is not more than ten percent greater than the bid price of the lowest responsive and responsible bidder offering a product that does not qualify under the definition of the term "recycled paper" found in Section 21-4.

(Code 1993, § 22.1-4; Code 2004, § 74-8; Code 2015, § 21-8)

State law reference—Similar provisions, Code of Virginia, § 2.2-4326.

Sec. 21-9. Prompt payment of bills.

(a) Every City agency that acquires goods or services or conducts any other type of contractual business with a nongovernmental, privately owned enterprise shall promptly pay for the completed delivered goods or services by the required payment date. The required payment date shall be either:

(1) The date on which payment is due under the terms of the contract for the provision of the goods or services; or

(2) If a date is not established by contract, not more than 45 days after goods or services are received or not more than 45 days after the invoice is rendered, whichever is later.

(b) Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial executions or deliveries to the extent that the contract provides for separate payment for partial execution or delivery.

(c) Within 20 days after the receipt of the invoice or goods or services, the agency shall notify the supplier of any defect or impropriety that would prevent payment by the payment date.

(d) Unless otherwise provided under the terms of the contract for the provision of goods or services, every agency that fails to pay by the payment date shall pay any finance charges assessed by the supplier that shall not exceed one percent per month.

(e) This section shall not apply to the late payment provisions in any public utility tariffs or public utility negotiated contracts.

(Code 1993, § 22.1-71; Code 2004, § 74-9; Code 2015, § 21-9)

State law reference—Similar provisions, Code of Virginia, § 2.2-4352.

Secs. 21-10—21-36. Reserved.

ARTICLE II. CONTRACT FORMATION AND METHODS OF SOURCE SELECTION

Sec. 21-37. Small purchases.

Any contract not exceeding the amount specified in Code of Virginia, § 2.2-4303(G) as the ceiling for the use of small purchase procedures may be made in accordance with small purchase procedures established by the Director; provided, however, that contract requirements shall not be artificially divided so as to constitute a small purchase under this section. Insofar as it is practical, no less than three businesses shall be solicited to submit quotations, at least one of which shall be a local minority business enterprise or emerging small business. The efforts to solicit a local minority business enterprise or emerging small business shall be recorded and maintained as a public record. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting a quotation and the dates and amounts of each quotation shall be recorded and maintained as a public record.

(Code 1993, § 22.1-66; Code 2004, § 74-41; Code 2015, § 21-37)

Sec. 21-38. Only practical source procurement.

Should the Director determine in writing, after conducting a good faith review of available sources, that there is only one source practicably available for that which is to be procured, the Director may award a contract to that source without competitive sealed bidding or competitive negotiation and may conduct negotiations, as appropriate, as to price, delivery and terms. However, the Director shall not make such a determination until the Director has contacted the Office of Minority Business Development and learned whether minority business enterprises or emerging small businesses exist that would be qualified, willing and able to provide that which is to be procured. The writing shall document the basis for this determination. The Director shall maintain a record of only practical source procurements that lists the following for each procurement:

(1) A description of that which is being procured;

(2) The contractor selected;

(3) The date on which the contract was or will be awarded;

(4) The amount and type of the contract; and

(5) The identification number of the contract file.

(Code 1993, § 22.1-64; Code 2004, § 74-42; Code 2015, § 21-38; Ord. No. 2006-134-105, § 1, 5-8-2006)

State law reference—Similar provisions, Code of Virginia, § 2.2-4303(E).

Sec. 21-39. Emergency purchases.

(a) In an emergency, the Director may authorize or order the expenditure of funds for emergency purchases of supplies, materials, equipment and contractual services for the using agencies without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency shall be included in the contract file.

(b) An emergency shall be deemed to exist when the Director determines that:

(1) A breakdown or failure of machinery or other equipment has occurred;

(2) A curtailment, diminution or termination of an essential service is threatened; or

(3) A dangerous condition has developed and that a procurement without recourse to competitive sealed bidding or competitive negotiation is:

a. Needed to prevent loss of life or property;

b. Essential to protect and preserve the interests of the City and its inhabitants;

c. Needed to maintain the proper functioning of the City government; or

d. Needed to maintain the efficient rendering of public services.

(c) Whenever, because of scarcity, the Department of Public Utilities is curtailed in excess of 15 percent of the quantity of natural gas which it is otherwise entitled to receive from its supplier pursuant to the terms of a contract approved by the City Council, the Director of Public Utilities is authorized, during the period of curtailment, to make purchases permitted by regulations of the Federal Energy Regulatory Commission or other governmental authorities having jurisdiction of such additional and emergency supplies of natural gas as may be available, without recourse to competitive bidding. The Director of Public Utilities shall advise the Chief Administrative Officer and the Director of Procurement Services of the fact of such purchase.

(Code 1993, § 22.1-65; Code 2004, § 74-43; Code 2015, § 21-39; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Similar provisions, Code of Virginia, § 2.2-4303(F).

Sec. 21-40. Cooperative procurement.

(a) *Cooperative procurement agreements.* The City may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia or the United States General Services Administration, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services.

(b) *Purchases off of other public bodies' contracts.*

(1) *By City.* The City may purchase from the contract of another public body or of any authority, department, agency or institution of the Commonwealth even if it did not participate in the request for proposals or invitation for bids, if the request for proposals or invitation for bids specified that the procurement was being conducted on behalf of other public bodies.

(2) *By other public bodies.* A public body may purchase from the City's contract even if it did not participate in the request for proposals or invitation for bids, if the request for proposals or invitation for bids specified that the procurement was being conducted on behalf of other public bodies.

(3) *Exceptions.* The City may not purchase architectural or engineering services from the contract of any other public body or any authority, department, agency or institution of the Commonwealth. No other public body may purchase from the City's contracts for architectural or engineering services.

(c) *Policies and procedures to be followed.* If the City is the party conducting the procurement, the procurement shall comply with the policies and procedures set forth within this chapter and the rules and regulations promulgated to implement this chapter. If the City is not the party conducting the procurement, then the procurement shall comply with the policies and procedures of the public body conducting the procurement. Prior to any City purchase under a contract entered by another public body, the Director shall find that the process pursuant to which the contract was entered generally complied with the policies and procedures established by this chapter and the rules and regulations promulgated to implement this chapter.

(d) *Purchases off of Federal contracts.* As authorized by the United States Congress and consistent with applicable Federal regulations, and provided the terms of the contract permit such purchases, the City may purchase goods and nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government, upon approval of the Director.

(e) *Utility marking services.* The City, which is also a utility operator, may purchase services through or participate in contracts awarded by one or more utility operators which are not public bodies for utility marking services, as required by the Underground Utility Damage Prevention Act, Code of Virginia, § 56-265.14 et seq. A purchase of services under this subsection may deviate from the procurement procedures set forth in this chapter,

upon a determination made in advance by the Director and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public and the contract is awarded based on competitive principles.

(Code 1993, § 22.1-26; Code 2004, § 74-44; Code 2015, § 21-40; Ord. No. 2010-234-220, § 1, 12-13-2010)

State law reference—Similar provisions, Code of Virginia, § 2.2-4304.

Sec. 21-41. Conditions for use of competitive sealed bidding.

All public contracts with nongovernmental contractors for the purchase or lease of goods or for the purchase of services, insurance or construction shall be awarded after competitive sealed bidding or competitive negotiation as provided in this chapter, unless otherwise authorized by law.

(Code 1993, § 22.1-36; Code 2004, § 74-45; Code 2015, § 21-41)

State law reference—Similar provisions, Code of Virginia, § 2.2-4303(A).

Sec. 21-42. Competitive sealed bidding or competitive negotiations of State-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of not more than $50,000.00 in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under Section 21-67(a)(3) or Section 21-44. The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

(Code 1993, § 22.1-37; Code 2004, § 74-46; Code 2015, § 21-42; Ord. No. 2016-197, § 1, 9-12-2016; Ord. No. 2017-099, § 1, 6-12-2017)

State law reference—Similar provisions, Code of Virginia, § 2.2-4305.

Sec. 21-43. Permitted contracts with certain religious organizations; purpose; limitations.

(a) The General Assembly has indicated its intent, in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, to authorize the City to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

(b) For the purposes of this section, the term "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193.

(c) The City, in procuring goods or services or in making disbursements pursuant to this section, shall not:

(1) Discriminate against a faith-based organization on the basis of the organization's religious character; or

(2) Impose conditions that:

a. Restrict the religious character of the faith-based organization, except as provided in subsection (f) of this section; or

b. Impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

(d) The City shall ensure that all invitations for bids, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that the City does not discriminate against faith-based organizations.

(e) A faith-based organization contracting with the City:

(1) Shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice or on the basis of race, age, color, gender or national origin; and

(2) Shall be subject to the same rules as other organizations that contract with the City to account for the use

of the funds; provided, however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the City.

Nothing in subsection (e)(2) of this section shall be construed to supersede or otherwise override any other applicable State law.

(f) Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, funds provided for expenditure pursuant to contracts with the City shall not be spent for sectarian worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

(g) Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 USC 2000e-1 et seq., to employ persons of a particular religion.

(h) If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between the City and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the City shall offer the individual, within a reasonable period of time after the date of the individual's objection, access to equivalent goods, services, or disbursements from an alternative provider. The City shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between the City and a faith-based organization a notice in boldface type that states:

"Neither the City's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

(Code 1993, § 22.1-72; Code 2004, § 74-47; Code 2015, § 21-43)

State law reference—Similar provisions, Code of Virginia, § 2.2-4343.1.

Sec. 21-44. Design-build and construction management contracts.

The City may enter into a contract for construction on a fixed-price or not-to-exceed price construction management or design-build basis, provided that (i) the City Council, by resolution, has adopted procedures for utilizing construction management or design-build contracts that meet the requirements of Code of Virginia, Title 2.2, Ch. 43.1, Art. 4 (Code of Virginia, § 2.2-4382 et seq.) and (ii) the City complies with the requirements of Code of Virginia, Title 2.2, Ch. 43.1, Art. 4 (Code of Virginia, § 2.2-4382 et seq.) and such procedures adopted by the City Council.

(Code 2004, § 74-48; Code 2015, § 21-44; Ord. No. 2011-46-44, § 2, 3-28-2011; Ord. No. 2016-197, § 1, 9-12-2016; Ord. No. 2017-099, § 1, 6-12-2017)

Sec. 21-45. Prequalification of nonconstruction bidders and offerors.

(a) The Director is authorized to prequalify bidders or offerors prior to a solicitation of bids or proposals, whether for goods, services, or insurance, by requiring prospective bidders or offerors to submit such information as the Director shall deem appropriate, including, but not limited to, samples, financial reports, and references. The opportunity to prequalify shall be given to any prospective bidder or offeror who has not been suspended or debarred under this chapter.

(b) The Director may refuse to prequalify any prospective bidder or offeror, provided that the bidder or offeror is notified in writing. Such notice shall state the reasons for the action taken. A prospective bidder or offeror who fails to prequalify for a procurement may not bid on the procurement. However, such prospective bidder or offeror may appeal the disqualification as provided in Section 21-161.

(c) In considering any request for prequalification, the Director shall determine whether there is reason to believe that the bidder or offeror possesses the management, financial soundness, and history of performance which

indicate apparent ability to successfully complete the plans and specifications of the invitations for bids or request for proposals, and the bidder's or offeror's past and proposed future good faith minority business enterprise and emerging small business participation efforts. In the absence of different weights or criteria established by the Office of Minority Business Development, a prospective bidder's good faith minority business enterprise and emerging small business participation efforts shall comprise 30 percent of the total prequalification score. The Office of Minority Business Development shall develop forms and criteria for and shall assess a bidder's prequalification with respect to past and proposed minority business enterprise and emerging small business participation efforts. No prospective bidder receiving less than 50 percent of the possible minority business enterprise and emerging small business participation efforts percentage points shall be prequalified unless granted a waiver by the Chief Administrative Officer. The Chief Administrative Officer may allow a waiver only when:

(1) No other qualified, willing, and able prospective bidders have applied for prequalification; and

(2) The Director of the Office of Minority Business Development certifies that the prospective bidder is unable due to circumstances beyond its control to make good faith minority business enterprise and emerging small business participation efforts that would achieve a higher number of percentage points. The proposed efforts must be set forth in detail in writing and must be legally binding on the prospective bidder.

(d) Prequalification of a bidder or offeror shall not constitute a conclusive determination that the bidder or offeror is responsible, and such bidder or offeror may be rejected as nonresponsible on the basis of subsequently discovered information.

(e) Failure of a bidder or offeror to prequalify with respect to a given procurement shall not bar the bidder or offeror from seeking prequalification as to future procurements or from bidding or offering proposals on procurements which do not require prequalification.

(Code 1993, § 22.1-41; Code 2004, § 74-49; Code 2015, § 21-45; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-134-105, § 1, 5-8-2006)

State law reference—Prequalification generally, Code of Virginia, § 2.2-4317.

Sec. 21-46. Prequalification of construction bidders.

(a) Any prequalification of prospective contractors for construction shall be pursuant to a prequalification process consistent with this section. The opportunity to prequalify shall be given to any prospective bidder who has not been suspended or debarred under this chapter.

(b) Good faith minority business enterprise and emerging small business participation efforts previously made and those efforts proposed to be made by the prospective bidder shall be information required to prequalify. In the absence of different weights or criteria established by the Office of Minority Business Development, a prospective bidder's good faith minority business enterprise and emerging small business participation efforts shall comprise 30 percent of the total prequalification score. The Office of Minority Business Development shall develop forms and criteria for and shall assess a bidder's prequalification with respect to past and proposed minority business enterprise and emerging small business participation efforts. No prospective bidder receiving less than 50 percent of the possible minority business enterprise and emerging small business participation efforts percentage points shall be prequalified unless granted a waiver by the Chief Administrative Officer. The Chief Administrative Officer may allow a waiver only when:

(1) No other qualified, willing, and able prospective bidders have applied for prequalification; and

(2) The Director of the Office of Minority Business Development certifies that the prospective bidder is unable due to circumstances beyond its control to make good faith minority business enterprise and emerging small business participation efforts that would achieve a higher number of percentage points. The proposed efforts must be set forth in detail in writing and must be legally binding on the prospective bidder.

(c) The Office of Minority Business Development shall maintain and update a list of bona fide minority business enterprises and emerging small businesses that are engaged in various fields of construction subcontracting and shall make this list available to all prospective prime construction contractors who desire to use it for assistance in attaining the highest possible ranking for good faith minority business enterprise and emerging small business

participation efforts.

(d) The application form used in the prequalification process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. Such form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to Section 21-5(f).

(e) Advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids as to allow the procedures set forth in this subsection to be accomplished.

(f) At least 30 calendar days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the City shall advise in writing each contractor which submitted an application whether that contractor has been prequalified. If a contractor is denied prequalification, the written notification to such contractor shall state the reasons for such denial of prequalification and the factual basis of such reasons. A decision by the City denying prequalification under this section shall be final and conclusive unless the contractor appeals the decision as provided in Section 21-161.

(g) Prequalification may be denied to any contractor only if the City finds one of the following:

(1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the City shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement;

(2) The contractor does not have appropriate experience to perform the construction project in question;

(3) The contractor or any officer, director or owner thereof has had judgments entered against the contractor within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

(4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the City without good cause. If the City has not contracted with a contractor in any prior construction contracts, the City may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The City may not utilize this subsection (g)(4) to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto was given to the contractor at that time, with the opportunity to respond;

(5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of:

a. Article VIII of this chapter;

b. The Virginia Governmental Frauds Act, Code of Virginia, § 18.2-498.1 et seq.;

c. Code of Virginia, Title 59.1, Ch. 4.2 (Code of Virginia, § 59.1-68.6 et seq.), which pertains to conspiracy to rig bids to government; or

d. Any substantially similar law of the United States or another state;

(6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the Federal government;

(7) The contractor failed to provide to the City in a timely manner any information requested by the City relevant to subsections (g)(1) through (6) of this section; and

(8) The contractor failed to make or propose to make good faith minority business enterprise and emerging small business participation efforts as set forth in subsection (b) of this section. A contractor that fails to receive a score of at least 50 percent of the possible minority business enterprise and emerging small business participation efforts percentage points shall not be prequalified to bid on or receive the contract.

(Code 1993, § 22.1-41.1; Code 2004, § 74-50; Code 2015, § 21-46; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-134-105, § 1, 5-8-2006)

State law reference—Similar provisions, Code of Virginia, § 2.2-4317.

Sec. 21-47. Competitive sealed bidding; procedures.

(a) An invitation for bids shall be in writing and contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the Director has provided for prequalification of bidders as provided under Section 21-45 or Section 21-46, the invitation for bids shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(b) Public notice of the invitation for bids shall be posted on the City's Internet website at least ten days prior to the date set for the receipt of bids. In addition, the Director may publish in a newspaper of general circulation or on the Virginia Department of General Services' central electronic procurement website.

(c) When inviting bids, the Director may also solicit bids directly from potential contractors. Any additional solicitations shall include certified businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity and shall include minority business enterprises or emerging small businesses, or both, selected from a list made available by the Office of Minority Business Development.

(d) No invitation for bids for construction services shall condition a successful bidder's eligibility on having a specified experience modification factor. For purposes of this subsection (d), the term "experience modification factor" means a value assigned to an employer as determined by a rate service organization in accordance with its uniform experience rating plan required to be filed pursuant to Code of Virginia, § 38.2-1913(D).

(Code 1993, § 22.1-42; Code 2004, § 74-51; Code 2015, § 21-47; Ord. No. 2016-197, § 1, 9-12-2016)

Sec. 21-48. Use of brand names.

Unless otherwise provided in the invitation for bids, the name of a certain brand, make or manufacturer shall not restrict bidders to the specific brand, make or manufacturer named and shall be deemed to convey the general style, type, character and quality of the article desired. Any article that the City in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The burden of proof as to the comparative quality and suitability of the alternative equipment, articles, materials or supplies shall be on the bidder or offeror, who shall furnish at the bidder's or offeror's own expense such information relating thereto as may be required by the purchasing agent.

(Code 1993, § 22.1-43; Code 2004, § 74-52; Code 2015, § 21-48)

State law reference—Similar provisions, Code of Virginia, § 2.2-4315.

Sec. 21-49. Comments on specifications.

For complex equipment, supplies, services or construction, pre-bid conferences with prospective bidders may be desirable after draft specifications have been prepared. Such conferences may be utilized to help detect unclear provisions that tend to widen competition by removing unnecessarily restrictive language. Conferences on purchasing bids will be called by the Director and attended by a requesting agency or department representative and, if necessary, the City Attorney.

(Code 1993, § 22.1-44; Code 2004, § 74-53; Code 2015, § 21-49)

State law reference—Similar provisions, Code of Virginia, § 2.2-4316.

Sec. 21-50. Bid bonds on construction contracts.

(a) Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of $500,000.00 or transportation-related projects authorized under Code of Virginia, Title 33.2, Ch. 2, Art. 2 (Code of Virginia, § 33.2-208 et seq.) that are in excess of $250,000.00 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that, if the contract is awarded to the bidder, the bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) For nontransportation-related construction contracts in excess of $100,000.00 but less than $500,000.00, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with Section 21-46. However, the Director may waive the requirement for prequalification of a bidder with a current Class A contractor license for contracts in excess of $100,000.00 but less than $300,000.00 upon a written determination made in advance by the City Council that waiving the requirement is in the best interests of the City. The City shall not enter into more than ten such contracts per year.

(c) No forfeiture under a bid bond shall exceed the lesser of:

(1) The difference between the bid for which the bond was written and the next low bid; or

(2) The face amount of the bid bond.

(d) Nothing in this section shall preclude the City from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000.00 for nontransportation-related projects or $250,000.00 for transportation-related projects authorized under Code of Virginia, Title 33.2, Ch. 2, Art. 2 (Code of Virginia, § 33.2-208 et seq.) and partially or wholly funded by the Commonwealth.

(Code 1993, § 22.1-45; Code 2004, § 74-54; Code 2015, § 21-50; Ord. No. 2011-79-64, § 1, 4-25-2011; Ord. No. 2017-099, § 1, 6-12-2017)

State law reference—Similar provisions, Code of Virginia, § 2.2-4336.

Sec. 21-51. Bonds for other than construction contracts.

(a) At the discretion of the Director, bidders may be required to submit with their bids a bid bond from a surety company selected by the bidder that is authorized to do business in the State, or a certified check, in an amount to be determined by the Director and specified in the invitation for bids, which shall be forfeited to the City upon the bidder's failure to execute a contract awarded to the bidder or upon the bidder's failure to furnish any required performance or payment bonds in connection with a contract awarded.

(b) The Director may require successful bidders to furnish a performance bond or a payment bond, or both, from a surety company selected by the bidder that is authorized to do business in the State at the expense of the successful bidder, in amounts to be determined by the Director and specified in the invitation for bids, to ensure the satisfactory completion of the work for which a contract or purchase order is awarded.

(Code 1993, § 22.1-46; Code 2004, § 74-55; Code 2015, § 21-51)

State law reference—Similar provisions, Code of Virginia, § 2.2-4339.

Sec. 21-52. Bid opening.

Bids received pursuant to this article shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as the Director deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection upon completion of the award. A tabulation of all bids received shall be made available for public inspection after the bid opening.

(Code 1993, § 22.1-47; Code 2004, § 74-56; Code 2015, § 21-52)

Sec. 21-53. Withdrawal of bid due to error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw the bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetic error or an

unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

(b) If a bid contains both clerical and judgment mistakes, a bidder may withdraw the bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

(c) One of the following procedures for withdrawal of a bid shall be selected by the Director and stated in the advertisement for bids:

(1) The bidder shall give notice in writing of the claim of right to withdraw the bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or

(2) Where the City opens the bids one day following the time fixed for the submission of bids, the bidder shall submit to the Director the bidder's original work papers, documents and materials used in the preparation of the bid at or prior to the time fixed for the opening of bids. The work papers shall be delivered by the bidder in person or by registered mail. The bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined in this section and withdraw the bid. The contract shall not be awarded by the City until the two-hour period has elapsed.

Under these procedures, the mistake shall be proved only from the original work papers, documents and materials delivered as required in this subsection. The work papers, documents and materials submitted by the bidder shall, at the bidder's request, be considered trade secrets or proprietary information subject to the conditions of Section 21-5(f).

(d) The Director may establish procedures for the withdrawal of bids for other than construction contracts.

(e) No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(f) If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.

(g) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(h) The Director shall notify the bidder in writing within five business days of the Director's decision regarding the bidder's request to withdraw its bid. If the Director denies the withdrawal of a bid under the provisions of this section, the Director shall state in such notice the reasons for the decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the Director shall return all work papers and copies thereof that have been submitted by the bidder.

(Code 1993, § 22.1-48; Code 2004, § 74-57; Code 2015, § 21-53; Ord. No. 2016-197, § 1, 9-12-2016)

State law reference—Similar provisions, Code of Virginia, § 2.2-4330.

Sec. 21-54. Bid evaluation under competitive sealed bidding.

Bids shall be evaluated based upon the requirements set forth in the invitation for bids, which may include special qualifications of contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability. In determining the lowest responsive and responsible bidder on purchases or contracts, the following factors, among such others as will protect and preserve the interests of the City and its inhabitants, shall be considered:

(1) The ability, capacity and will of the bidder to perform the contract or provide the service required.

(2) Whether the bidder can perform the contract or provide the services promptly or within the time specified, without delay or interference.

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(4) The quality of performance of previous contracts or services.

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract, purchase or service.

(6) The equipment, personnel and facilities available to the bidder to perform the contract or provide the service.

(7) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.

(8) The quality, availability and adaptability of the supplies, materials, equipment or services to the particular use required.

(9) The ability of the bidder to provide future maintenance and service for the use of the subject of the purchase or contract.

(10) The amount and conditions, if any, of the bid.

(11) The bidder's showing that it can and will comply with its proposed commitments to minority business enterprise and emerging small business participation efforts.

(12) The bidder's past performance with regard to its minority business enterprise and emerging small business participation efforts.

(Code 1993, § 22.1-49; Code 2004, § 74-58; Code 2015, § 21-54; Ord. No. 2016-197, § 1, 9-12-2016)

Sec. 21-55. Bid award under competitive sealed bidding.

(a) Bids under competitive sealed bidding shall be awarded to the lowest responsive and responsible bidder. When the terms and conditions of multiple bids are so provided in the invitation to bid, awards may be made to more than one bidder.

(b) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If all bids for a procurement exceed available funds allocated to that procurement by prior agency, departmental or other official action, as certified by the agency head or department director, the Director, with the approval of the Chief Administrative Officer, is authorized, when time or economic considerations preclude resolicitations of work of a reduced scope, to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder in order to bring the bid within the amount of available funds allocated to that procurement.

(c) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing office and filed with the other papers relating to this transaction.

(Code 1993, § 22.1-50; Code 2004, § 74-59; Code 2015, § 21-55; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-56. Tie bids.

(a) In the case of a tie bid, preference shall be given to goods, services and construction produced in the City or provided by persons in the City, if such a choice is available; otherwise, the tie shall be decided by lot, unless Section 21-8 applies.

(b) Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed to the lowest responsible bidder who is a resident of this State.

(c) In any contract which is to be awarded through competitive sealed bidding, if there are equal bids among qualified bidders, the contract shall be awarded to the contractor who will be able to provide the greatest degree of

accessibility to the City officials who will be administering the contract.

(d) If more than two bids received are tied, the City shall compare location, payment terms, delivery terms, and other terms and shall select the bid most favorable to the City based on that comparison, which shall be documented in writing.

(e) If none of the subsections of this section resolve the tie, the Director may cancel the solicitation and rebid. Records shall be kept of any proceeding connected with tie bids.

(Code 1993, § 22.1-51; Code 2004, § 74-60; Code 2015, § 21-56)

State law reference—Similar provisions, Code of Virginia, § 2.2-4328(A).

Sec. 21-57. Contract pricing arrangements.

(a) Except as prohibited in this article, public contracts may be awarded on a fixed-price or cost reimbursement basis or on any other basis that is not prohibited.

(b) Subject to the limitations of this section, any type of contract which is appropriate to the procurement and which will promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract or a cost-plus-a-percentage-of-construction-cost contract is prohibited.

(c) A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

(Code 1993, § 22.1-53; Code 2004, § 74-61; Code 2015, § 21-57)

Sec. 21-58. Multiterm contracts.

(a) *Specified period.* Unless otherwise provided by law, a contract for goods, services or insurance may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

(b) *Cancellation due to unavailability of funds in succeeding fiscal periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

(Code 1993, § 22.1-54; Code 2004, § 74-62; Code 2015, § 21-58)

Charter reference—Certification of funds, § 6.20.

Sec. 21-59. Contract modification or supplement.

A public contract may include provisions for modification of the contract during performance, but no fixed-price contract that will increase the amount to be expended under such contract in an amount in excess of $100,000.00 in the aggregate shall be made unless the Chief Administrative Officer approves such change in writing in advance of such modification being made.

(Code 1993, § 22.1-55; Code 2004, § 74-63; Code 2015, § 21-59; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Similar provisions, Code of Virginia, § 2.2-4309.

Sec. 21-60. Retainage on construction contracts.

(a) In any public contract for construction that provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Any subcontract for a public project that provides for similar progress payments shall be subject to this section.

(Code 1993, § 22.1-56; Code 2004, § 74-64; Code 2015, § 21-60)

State law reference—Similar provisions, Code of Virginia, § 2.2-4333.

Sec. 21-61. Deposit of certain retained funds on certain contracts; penalty for failure to timely complete.

(a) When contracting directly with contractors for public contracts of $200,000.00 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, the City shall include in the bid proposal an option for the contractor to use an escrow account procedure for utilization of the City's retainage funds by so indicating in the space provided in the proposal documents. If the contractor elects to use the escrow account procedure, the escrow agreement form included in the bid proposal and contract shall be executed and submitted to the Director within 15 calendar days after notification. If the escrow agreement form is not submitted within the 15-day period, the contractor shall forfeit the contractor's rights to the use of the escrow account procedure.

(b) In order to have retained funds paid to an escrow agent, the contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth. The escrow agreement and all regulations adopted by the City shall be substantially the same as that used by the State Department of Transportation.

(c) This section shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities, and the construction or maintenance of solid waste or recycling facilities and treatment plants.

(d) Any such public contract for construction with the City which includes payment of interest on retained funds may require a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

(e) Any subcontract for such public project which provides for similar progress payments shall be subject to this section.

(Code 1993, § 22.1-56.1; Code 2004, § 74-65; Code 2015, § 21-61)

State law reference—Similar provisions, Code of Virginia, § 2.2-4334.

Sec. 21-62. Public construction contract provisions barring damages for unreasonable delays declared void.

(a) Any provision contained in any public construction contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on the contractor's behalf or on behalf of the contractor's subcontractor, if and to the extent the delay is caused by acts or omissions of the City, its agents or employees and due to causes within their control, shall be void and unenforceable as against public policy.

(b) Subsection (a) of this section shall not be construed to render void any provision of a public construction contract that:

(1) Allows the City to recover that portion of delay costs caused by the acts or omissions of the contractor or its subcontractors, agents or employees;

(2) Requires notice of any delay by the party claiming the delay;

(3) Provides for liquidated damages for delay; or

(4) Provides for arbitration or any other procedure designed to settle contract disputes.

(c) A contractor making a claim against the City for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the City and shall pay it for a percentage of all costs incurred by the City in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

(d) If the City denies a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract, the City shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the City shall be equal to the percentage of the contractor's total delay claim for which the City's denial is determined through litigation or arbitration to have been made in bad faith.

(Code 1993, § 22.1-56.2; Code 2004, § 74-66; Code 2015, § 21-62)

State law reference—Similar provisions, Code of Virginia, § 2.2-4335.

Sec. 21-63. Performance and payment bonds.

(a) Except as provided in subsection (h) of this section, upon the award of any:

(1) Public construction contract exceeding $500,000.00 awarded to any prime contractor;

(2) Construction contract exceeding $500,000.00 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body;

(3) Construction contract exceeding $500,000.00 in which the performance of labor or the furnishing of materials will be paid with public funds; or

(4) Transportation-related projects exceeding $350,000.00 that are partially or wholly funded by the Commonwealth;

the contractor shall furnish to the City the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under Code of Virginia, Title 33.2, Ch. 2, Art. 2 (Code of Virginia, § 33.2-208 et seq.), such bond shall be in a form and amount satisfactory to the Director.

(2) A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in furtherance of the work. For transportation-related projects authorized under Code of Virginia, Title 33.2, Ch. 2, Art. 2 (Code of Virginia, § 33.2-208 et seq.), and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the Director.

The term "labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) For nontransportation-related construction contracts in excess of $100,000.00 but less than $500,000.00, where the performance and payment bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with Section 21-46. However, the Director may waive the requirement for prequalification of a contractor with a current Class A contractor license for contracts in excess of $100,000.00 but less than $300,000.00 upon a written determination made in advance by the City Council that waiving the requirement is in the best interests of the City. The City shall not enter into more than ten such contracts per year.

(c) Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

(d) Bonds shall be payable to the City.

(e) Each of the bonds shall be filed with the Director.

(f) Nothing in this section shall preclude the Director from requiring payment or performance bonds for construction contracts below $500,000.00 for nontransportation-related projects or $350,000.00 for transportation-related projects authorized under Code of Virginia, § 33.2-208 and partially or wholly funded by the Commonwealth.

(g) Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a

payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

(h) The performance and payment bond requirements of subsection (a) of this section for transportation-related projects that are valued in excess of $250,000.00 but less than $350,000.00 may only be waived by the Director if the bidder provides evidence, satisfactory to the Director, that a surety company has declined an application from the contractor for a performance or payment bond.

(Code 1993, § 22.1-57; Code 2004, § 74-67; Code 2015, § 21-63; Ord. No. 2011-79-64, § 1, 4-25-2011; Ord. No. 2016-197, § 1, 9-12-2016; Ord. No. 2017-099, § 1, 6-12-2017)

State law reference—Similar provisions, Code of Virginia, § 2.2-4337.

Sec. 21-64. Action on performance bond.

No action against the surety on a performance bond given pursuant to this article shall be brought unless within one year after:

(1) Completion of the contract, including the expiration of all warranties and guaranties; or

(2) Discovery of the defect or breach of warranty, if the action is for such.

(Code 1993, § 22.1-58; Code 2004, § 74-68; Code 2015, § 21-64)

State law reference—Similar provisions, Code of Virginia, § 2.2-4340.

Sec. 21-65. Actions on payment bond.

(a) Subject to subsection (b) of this section, any claimant who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which the claimant claims payment may bring an action on such payment bond to recover any amount due for the labor or material and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

(b) Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond under Section 21-63(f), but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if the claimant has given written notice to such contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which the claimant claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond under Section 21-63(f), but who has no contractual relationship, express or implied, with such contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where the contractor's office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

(c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

(d) Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

(Code 1993, § 22.1-59; Code 2004, § 74-69; Code 2015, § 21-65)

State law reference—Similar provisions, Code of Virginia, § 2.2-4341.

Sec. 21-66. Alternative forms of security.

(a) In lieu of a bid, payment or performance bond, a bidder may furnish a certified check, cashier's check, or cash escrow in the face amount required for the bond.

(b) If approved by the City Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the City equivalent to a corporate surety's bond.

(Code 1993, § 22.1-60; Code 2004, § 74-70; Code 2015, § 21-66; Ord. No. 2013-232-214, § 1, 11-25-2013)

State law reference—Similar provisions, Code of Virginia, § 2.2-4338.

Sec. 21-67. Competitive negotiation for goods, nonprofessional services, insurance, and construction.

(a) *Conditions for use.* Conditions for use of competitive negotiation as set forth in this section shall be as follows:

(1) The Director may allow the use of either competitive sealed bidding as set forth in Sections 21-47 and 21-52 through 21-56 or competitive negotiation as set forth in this section to procure any public contract with a nongovernmental contractor for the purchase or lease of goods or for the purchase of nonprofessional services or insurance.

(2) Upon a determination made in advance by the Director and set forth in writing that competitive sealed bidding or competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for in this section. The basis for this determination shall be documented in writing.

(3) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances:

a. On a fixed-price design-build basis or construction management basis as provided in Section 21-44;

b. For the construction of highways and any draining, dredging, excavation, grading or similar work upon real property upon a determination made in advance by the Director and set forth in writing by the Director that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination; or

c. Pursuant to Article IX of this chapter.

No request for proposals for construction authorized by this chapter shall condition a successful offeror's eligibility on having a specified experience modification factor. For the purposes of this Section 21-67(a)(3), the term "experience modification factor" means a value assigned to an employer as determined by a rate service organization in accordance with its uniform experience rating plan required to be filed pursuant to Code of Virginia, § 38.2-1913(D).

(b) *Request for proposals.* A request for proposals shall be in writing and indicate in general terms what is sought to be procured, specifying the factors which will be used in evaluating the proposal, indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities, specifications, or qualifications that will be required. Except with regard to contracts for transportation construction services or transportation-related construction services, the City may include as a factor that will be used in evaluating a proposal the offeror's employment of persons with disabilities to perform the specifications of the contract. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the request for proposals or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.

(c) *Public notice.* At least ten days prior to the date set for receipt of proposals, public notice shall be given by posting on the City's Internet website. In addition, the Director shall publish the notice in a newspaper of general circulation in the City so as to provide reasonable notice to the maximum number of offerors that can be reasonably expected to submit proposals in response to the particular request and may publish the notice on the Virginia Department of General Services' central electronic procurement website. In addition, proposals may be solicited

directly from potential contractors. Any additional solicitations shall include certified businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity and shall include minority business enterprises or emerging small businesses, or both, selected from a list made available by the Office of Minority Business Development.

(d) *Procedures for evaluation and award.* No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposals, including price if so stated in the request for proposals. In the case of a proposal for information technology, as defined in Code of Virginia, § 2.2-2006, the Director shall not require an offeror to state in a proposal any exception to any liability provisions contained in the request for proposals. Negotiations shall then be conducted with each of the offerors so selected. The offeror shall state any exception to any liability provisions contained in the request for proposals in writing at the beginning of negotiations, and such exceptions shall be considered during negotiation. Price shall be considered, but need not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the Director shall select the offeror which, in the Director's opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the request for proposals, awards may be made to more than one offeror. Should the Director determine in writing and in the Director's sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

(e) *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors. One evaluation factor shall be good faith minority business enterprise and emerging small business participation efforts. Such good faith minority business enterprise and emerging small business participation efforts shall comprise 30 percent of the total evaluation. The Office of Minority Business Development shall develop criteria to assess an offeror's good faith minority business enterprise and emerging small business participation efforts and shall evaluate the offeror's response based on those criteria. No offeror receiving less than 50 percent of the possible good faith minority business enterprise and emerging small business participation efforts percentage points from the Office of Minority Business Development shall receive a contract award under competitive negotiation unless granted a waiver by the Chief Administrative Officer. The Chief Administrative Officer may allow a waiver only when:

(1) No other qualified, willing, and able offerors have submitted proposals; and

(2) Either the Director of the Office of Minority Business Development certifies that the offeror is unable due to circumstances beyond its control to make good faith minority business enterprise and emerging small business participation efforts that would achieve a higher number of percentage points or the Chief Administrative Officer determines that the City will suffer substantial cost, financial or otherwise, if a waiver is not granted.

(Code 1993, § 22.1-61; Code 2004, § 74-71; Code 2015, § 21-67; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-134-105, § 1, 5-8-2006; Ord. No. 2016-197, § 1, 9-12-2016; Ord. No. 2017-099, § 1, 6-12-2017; Ord. No. 2020-116, § 1, 6-8-2020)

State law reference—Similar provisions, Code of Virginia, § 2.2-4303(C), (D).

Sec. 21-68. Contracting for professional services by competitive negotiation.

(a) *Conditions for use.* Where the cost of professional services is not expected to exceed $60,000.00 in the aggregate or for the sum of all phases of a contract or project, professional services may be procured in accordance with small purchase procedures adopted in writing by the Director, provided such procedures provide for competition wherever practicable. Where the cost of professional services is expected to exceed $60,000.00 in the aggregate or for the sum of all phases of a contract or project, professional services shall be procured by competitive negotiation as set forth in this section.

(b) *Competitive negotiation; solicitation, discussion and award.* The Director shall issue a written request for proposals indicating in general terms that which is to be procured, specifying the factors that will be used in evaluating the proposal, indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any

unique capabilities, specifications, or qualifications that will be required. Except with regard to contracts for architectural or professional engineering services, the City may include as a factor that will be used in evaluating a proposal the offeror's employment of persons with disabilities to perform the specifications of the contract. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the request for proposals or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals. At least ten days prior to the date set for receipt of proposals, the Director shall give public notice of the request for proposals by posting on the City's Internet website. In addition, the Director shall publish the notice in a newspaper of general circulation in the City so as to provide reasonable notice to the maximum number of offerors that can be reasonably expected to submit proposals in response to the particular request and may publish the notice on the Virginia Department of General Services' central electronic procurement website. In addition, proposals may be solicited directly from potential contractors. Any additional solicitations shall include certified businesses from a list made available by the Virginia Department of Small Business and Supplier Diversity and shall include minority business enterprises or emerging small businesses, or both, selected from a list made available by the Office of Minority Business Development. The Director shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the Director in addition to the review of the professional competence of the offeror. The request for proposals shall not, however, request that offerors furnish estimates of man-hours or cost for services. For architectural or engineering services, the Director shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to Code of Virginia, § 2.2-1132, until after the qualified offerors are ranked for negotiations. At the discussion stage, the Director may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing and, where appropriate, nonbinding estimates of price for services. In accordance with Section 21-5, proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subsection, on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the Director shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the City can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the City, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposals, the Director may award contracts to more than one offeror. Should the Director determine in writing and in the Director's sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than any others under consideration, a contract may be negotiated and awarded to that offeror.

(c) *Architectural or professional engineering services for multiple projects.* A contract for architectural or professional engineering services relating to construction projects may be negotiated by the City for multiple projects, provided:

(1) The projects require similar experience and expertise;

(2) The nature of the projects is clearly identified in the request for proposals; and

(3) The contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.

Such contract may be renewable for four additional one-year terms at the option of the City. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall not exceed $8,000,000.00, and (c) the project fee of any single project shall not exceed $2,500,000.00. Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one

offeror provided (1) the request for proposals so states and (2) the Director has established procedures for distributing multiple projects among the selected contractors during the contract term. Such procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

(d) *Multiphase professional services contracts.* Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased or long-term projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, where completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Director shall state the anticipated total scope of the project and determine in writing that the nature of the work is such that the best interests of the City require awarding the contract. For purposes of this subsection, the term "multiphase professional service contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

(Code 1993, § 22.1-63; Code 2004, § 74-72; Code 2015, § 21-68; Ord. No. 2015-102-202, § 1, 11-9-2015; Ord. No. 2016-197, § 1, 9-12-2016; Ord. No. 2020-116, § 1, 6-8-2020)

Editor's note—Ord. No. 2015-102-202, § 2, adopted Nov. 9, 2015, provides: "The Director of Procurement Services shall prepare and submit to the City Council, the Mayor, and the Chief Administrative Officer:

(a) A written report, submitted annually by the end of December beginning in 2016, showing the efficiencies achieved in the procurement of architectural and professional engineering services as a result of the adoption of this ordinance over the year preceding the submission of the report; and

(b) A written report, submitted monthly by the end of the month beginning with December, 2015, identifying all existing contracts procured under Section 21-68 of the Code of the City of Richmond (2015), as amended, and as may be recodified in the future, that, since the last such report, have been:

(1) Modified via change order or contract modification, stating for each the dollar amount of the change and the change in scope or other reason for the change in dollar amount;

(2) Renewed or extended, stating for each the period of time for which the contract has been renewed or extended and the new expiration date; and

(3) Re-solicited, stating for each sufficient information to enable a person reading the report to view a copy of the new solicitation on the internet."

State law reference—Similar provisions, Code of Virginia, § 2.2-4302.2.

Sec. 21-69. Consideration of accessibility of contractors.

In any contract which is to be awarded through competitive negotiation, the request for proposals shall contain, as one factor for evaluation of proposals, the degree of accessibility that the contractor will be able to provide to the City officials who will be administering the contract.

(Code 1993, § 22.1-63.1; Code 2004, § 74-73; Code 2015, § 21-69)

Sec. 21-70. Employment discrimination by contractor prohibited; required contract provisions.

The City shall include in every contract of more than $10,000.00 the following provisions:

(1) During the performance of this contract, the contractor agrees as follows:

a. The contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by State law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, shall state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with Federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) During the performance of this contract, the contractor shall include the provisions of subsection (1) of this section in every subcontract or purchase order of over $10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

(Code 1993, § 22.1-68; Code 2004, § 74-74; Code 2015, § 21-70)

State law reference—Similar provisions, Code of Virginia, § 2.2-4311.

Sec. 21-71. Obstruction of practices required under chapter.

It shall be unlawful for any person to:

(1) Directly or indirectly cause or coerce or attempt to cause or coerce any person to disregard any practice required to be performed under this chapter.

(2) Directly or indirectly engage in economic reprisal or intimidation or harm or threaten harm to any person or retaliate or interfere with any person because such person is willing to or has complied with any practice required to be performed under this chapter or encouraged others to comply with any section in this chapter or has exercised or attempted to exercise any right conferred in this chapter.

(3) Directly or indirectly cause or coerce or attempt to cause or coerce another person to engage in economic reprisal or intimidation or harm or threaten harm to any person or retaliate against or interfere with any person because such person is willing to or has complied with any practice required to be performed under this chapter or encouraged others to comply with any section in this chapter or has exercised or attempted to exercise any right conferred in this chapter.

(Code 1993, § 22.1-69; Code 2004, § 74-75; Code 2015, § 21-71)

Sec. 21-72. Cancellation of solicitations and rejection of bids or proposals; waiver of informalities.

(a) The Director may cancel an invitation for bids, a request for proposals, or any other solicitation and may reject any or all bids or proposals in whole or in part when the Director determines that it is in the best interest of the City to do so. The reasons for cancellation or rejection shall be made part of the contract file. The Director shall not cancel or reject an invitation for bids, a request for proposals, or any other solicitation, bid or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

(b) The Director may waive informalities in bids.

(Code 1993, § 22.1-70; Code 2004, § 74-76; Code 2015, § 21-72)

Sec. 21-73. Job order contracting.

(a) The Director may award a job order contract for multiple jobs, provided (1) the jobs require similar experience and expertise, (2) the nature of the jobs is clearly identified in the solicitation, and (3) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first. The Director may select contractors through either competitive sealed bidding or competitive negotiation.

(b) Such contracts may be renewable for two additional one-year terms. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed $6,000,000.00. Individual job orders shall not exceed $500,000.00.

(c) For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.

(d) Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection (b) of this section is prohibited.

(e) The Director may not issue or use a job order under a job order contract solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Code of Virginia, § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services (1) are incidental and directly related to the job, (2) do not exceed $25,000.00 per job order, and (3) do not exceed $75,000.00 per contract term.

(f) Job order contracting shall not be used for construction, maintenance, or asset management services for

a highway, bridge, tunnel, or overpass. However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to $250,000.00, subject to the maximum annual threshold amount established in this section.

(Code 2015, § 21-73; Ord. No. 2016-197, § 2, 9-12-2016)

State law reference—Job order contracting, Code of Virginia, § 2.2-4303.2.

Secs. 21-74—21-102. Reserved.

ARTICLE III. DISPOSAL OF SURPLUS PROPERTY

Sec. 21-103. Reports of unused property.

All using agencies shall submit to the Director, at such time and in such form as prescribed, reports showing stocks of all supplies, materials and equipment which are no longer used or which have become obsolete, worn out or scrapped. Agencies having surplus, obsolete or unused supplies, materials or equipment shall declare such property surplus to the Director by completing a declaration of surplus property form, including quantity, description, location and other details required by the form.

(Code 1993, § 22.1-76; Code 2004, § 74-111; Code 2015, § 21-103)

Sec. 21-104. Transfer of stock to other using agencies.

The Director shall have the sole authority to transfer surplus stock to other using agencies.

(Code 1993, § 22.1-77; Code 2004, § 74-112; Code 2015, § 21-104)

Sec. 21-105. Sale or exchange.

The Director shall have the authority to sell all supplies, materials and equipment that the Director determines in writing to be unsuitable for public use. Further, the Director shall have the authority to exchange such supplies, materials and equipment for or to trade in such supplies, materials and equipment on new supplies, materials, or equipment. When property is sold in lieu of being traded in on the purchase of new supplies, materials or equipment, the amount received shall be credited to the appropriate City account. Agencies shall list all possible trade-in items on their replacement purchase requisitions.

(Code 1993, § 22.1-78; Code 2004, § 74-113; Code 2015, § 21-105)

Sec. 21-106. Donation.

(a) If the Director finds in writing that it is impractical to sell or exchange supplies, materials, equipment or vehicles that are unsuitable for public use as provided in Section 21-105, the Director shall have the authority to donate such supplies, materials, equipment or vehicles to other public bodies or to nonprofit organizations.

(b) The Library Director shall have the authority to transfer City-owned books that the Library Director determines to be surplus to private nonprofit organizations that will dispose of such books through a public book sale and return the proceeds to the City for the purchase of additional books or materials for the public library.

(Code 1993, § 22.1-78.1; Code 2004, § 74-114; Code 2015, § 21-106; Ord. No. 2005-290-247, § 1, 11-14-2005)

Sec. 21-107. Special restrictions.

(a) Whenever items are surplus, obsolete or unused in one agency, they shall be transferred to another City agency, sold only by the Director, or traded in on the purchase of needed supplies, materials or equipment.

(b) Surplus property not transferred to a City agency or traded in shall be sold by competitive bidding or public auction whenever practicable. When determined in writing to be impractical or when no bids or offers are received, the Director may sell surplus property on a negotiated basis. Receipts shall be credited to the appropriate income account.

(c) Employees and dependents of employees of the disposing agency and selling agency may purchase City surplus property at uniform prices available to the general public in accordance with the State and Local Government Conflict of Interest Act, Code of Virginia, § 2.2-3100 et seq.

(Code 1993, § 22.1-79; Code 2004, § 74-115; Code 2015, § 21-107)

Secs. 21-108—21-127. Reserved.

ARTICLE IV. DEBARMENT*

***State law reference—**Debarment, Code of Virginia, § 2.2-4321.

Sec. 21-128. Authority to debar or suspend.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Chief Administrative Officer, after consulting with the City Attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the City Attorney, the Chief Administrative Officer is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not exceeding three months. The causes for debarment include the following:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;

(2) Conviction under State and Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor;

(3) Conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;

(4) Violation of contract provisions, as follows, of a character which is regarded by the Chief Administrative Officer to be so serious as to justify debarment action:

a. Deliberate failure without good cause to perform in accordance with specifications or within the time limit provided in the contract; or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment; and

(5) Any other cause that the Chief Administrative Officer determines to be so serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity for any cause in this chapter and for violation of the ethical standards set forth in this chapter.

(Code 1993, § 22.1-91; Code 2004, § 74-151; Code 2015, § 21-128; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-129. Decision to debar or suspend.

The Chief Administrative Officer shall issue a written decision to debar or suspend pursuant to this article. The decision shall state the reasons for the action taken and shall inform the debarred or suspended person involved of such person's rights concerning judicial or administrative review.

(Code 1993, § 22.1-92; Code 2004, § 74-152; Code 2015, § 21-129; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-130. Notice of decision.

A copy of the decision required by Section 21-129 shall be mailed or otherwise furnished immediately to the debarred or suspended person.

(Code 1993, § 22.1-93; Code 2004, § 74-153; Code 2015, § 21-130)

Sec. 21-131. Finality of decision.

A decision under Section 21-129 shall be final and conclusive, unless the debarred or suspended person appeals the decision as provided in Section 21-168 for administrative appeals or, in the alternative, by instituting legal action as provided in Section 21-169.

(Code 1993, § 22.1-94; Code 2004, § 74-154; Code 2015, § 21-131)

Secs. 21-132—21-160. Reserved.

ARTICLE V. APPEALS AND REMEDIES FOR PROTESTS*

***State law reference—**Administrative appeals, Code of Virginia, § 2.2-4365.

Sec. 21-161. Ineligibility of bidder, offeror or contractor.

(a) Any bidder, offeror or contractor refused permission to participate or disqualified from participating in public contracts shall be notified in writing. Such notice shall state the reasons for the action taken. This decision shall be final unless the bidder, offeror or contractor appeals the decision as provided in Section 21-168 for administrative appeals or, in the alternative, by instituting legal action as provided in Section 21-169.

(b) If, upon appeal, it is determined that the action taken was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution or any applicable State law or regulation, then the sole relief shall be restoration of eligibility.

(Code 1993, § 22.1-106; Code 2004, § 74-186; Code 2015, § 21-161)

Sec. 21-162. Appeal of denial of withdrawal of bid.

(a) A decision denying withdrawal of a bid under Section 21-53 on withdrawal of bid due to error shall be final and conclusive unless the bidder appeals the decision as provided in Section 21-168 for administrative appeals or, in the alternative, by instituting legal action as provided in Section 21-169.

(b) If no bid bond was posted, a bidder refused withdrawal of a bid under Section 21-53, prior to appealing, shall deliver to the Director a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next lowest bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

(c) If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution, any applicable State law or regulation or the terms and conditions of the invitation for bids, the sole relief shall be withdrawal of the bid.

(Code 1993, § 22.1-107; Code 2004, § 74-187; Code 2015, § 21-162)

Sec. 21-163. Determination of nonresponsibility.

(a) Following public opening and announcement of bids received on an invitation for bids, the City shall evaluate the bids in accordance with Section 21-54. At the same time, the City shall determine whether the apparent low bidder is responsible. If the City so determines, it may proceed with an award in accordance with Section 21-55. If the City determines that the apparent low bidder is not responsible, it shall proceed as follows:

(1) Prior to the issuance of a written determination of nonresponsibility, the City shall:

a. Notify the apparent low bidder in writing of the results of the evaluation;

b. Disclose the factual support for the determination; and

c. Allow the apparent low bidder an opportunity to inspect any documents which relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

(2) Within ten business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The City shall issue its written determination of nonresponsibility based on all information in the possession of the City, including any rebuttal information, within five business days of the date the City received such rebuttal information. At the same time, the City shall notify the bidder in writing of its determination.

(3) Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision as provided in Section 21-168 for administrative appeals or, in the alternative, by instituting legal action as provided in Section 21-169.

This subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

(b) If, upon appeal, it is determined that the decision of the City was not an honest exercise of discretion,

but rather was arbitrary or capricious or not in accordance with the State constitution, any applicable State law or regulation or the terms and conditions of the invitation for bids and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question or a directed award as provided in Section 21-168(a), or both. If it is determined that the decision of the City was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution, any applicable State law or regulation or the terms and conditions of the invitation for bids and an award of the contract has been made, the relief shall be as set forth in Section 21-164(b).

(c) A bidder contesting a determination that the bidder is not a responsible bidder for a particular contract shall proceed under this section and may not protest the award or proposed award under Section 21-164.

(d) Nothing contained in this section shall be construed to require the City, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

(Code 1993, § 22.1-107.1; Code 2004, § 74-188; Code 2015, § 21-163)

Sec. 21-164. Protest of award or decision to award.

(a) Any bidder or offeror may protest the award or decision to award a contract by submitting such protest in writing to the Director no later than ten calendar days after the award or the announcement of the decision to award, whichever occurs first. The Director shall not be required to consider protests not properly addressed and delivered to the Director within the ten-calendar-day period. Any potential bidder or offeror on a contract negotiated on an only practical source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten calendar days after the notice of such contract. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Section 21-5, the time within which the protest must be submitted shall expire ten calendar days after those records are available for inspection by such bidder or offeror under Section 21-5 or at such later time as provided in this section. No protest shall be for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Director shall issue a decision in writing within ten calendar days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals as provided in Section 21-168 for administrative appeals or, in the alternative, by instituting legal action as provided in Section 21-169. Nothing in this subsection shall be construed to permit a bidder or offeror to challenge the validity of the terms or conditions of the invitation for bids or request for proposals.

(b) If, prior to an award, it is determined that the decision to award was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution, applicable State law, or the terms and conditions of the invitation for bids, the sole relief shall be a finding to that effect. The Director shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution, applicable State law, or the terms and conditions of the invitation for bids, the sole relief shall be as provided in subsection (c) of this section. Where the award has been made, but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the Chief Administrative Officer may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

(c) If the Procurement Review Board established by Section 21-168(c)(1) determines, after a hearing held following reasonable notice to all bidders or offerors, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of Article VIII of this chapter, the Procurement Review Board may enjoin the award of the contract to a particular bidder or offeror.

(Code 1993, § 22.1-108; Code 2004, § 74-189; Code 2015, § 21-164; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-165. Effect of appeal upon contract.

Pending final determination of a protest or appeal pursuant to this article, the validity of a contract awarded and accepted in good faith in accordance with this chapter shall not be affected by the fact that a protest or appeal

has been filed.

(Code 1993, § 22.1-109; Code 2004, § 74-190; Code 2015, § 21-165)

Sec. 21-166. Stay of award during protest.

An award need not be delayed for the period allowed a bidder or offeror to protest, but if a timely protest is filed as provided in Section 21-164 or a timely legal action is filed as provided in Section 21-169, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

(Code 1993, § 22.1-110; Code 2004, § 74-191; Code 2015, § 21-166)

Sec. 21-167. Contractual disputes.

(a) Contractual claims, whether for money or other relief, shall be submitted in writing to the Director no later than 60 calendar days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing in this section shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

(b) A procedure for consideration of contractual claims shall be included in each contract. Such procedure, which may be incorporated into the contract by reference, shall establish a time limit for a final decision in writing by the Director.

(c) A contractor may not invoke administrative procedures as provided in Section 21-168 or institute legal action as provided in Section 21-169 prior to receipt of the decision on the claim, unless the Director fails to render such decision within the time specified in the contract.

(d) The decision of the Director shall be final and conclusive unless the contractor appeals within 30 calendar days of the date of the final decision on the claim by the Director as provided in Section 21-168 for administrative appeals or, in the alternative, by instituting legal action as provided in Section 21-169.

(e) Nothing in this section shall be construed to authorize or permit any contractor pursuing, by any available procedure, an appeal of a contractual claim or dispute to cease performance of a contract while such claim or dispute is pending.

(Code 1993, § 22.1-111; Code 2004, § 74-192; Code 2015, § 21-167)

Sec. 21-168. Administrative appeals procedure.

(a) An administrative appeals procedure is hereby established for hearing protests of a decision to award or an award, appeals from refusals to allow withdrawal of bids, appeals from disqualifications and determinations of nonresponsibility, appeals from debarments or suspensions, and appeals from decisions on disputes arising during the performance of a contract, or any of these.

(b) Procedures for the initial administrative appeal shall be as follows:

(1) Any act or decision of the City listed in subsection (a) of this section may be appealed or protested by writing to the Director within ten calendar days of the act or decision at issue. The writing must indicate the basis for the protest and the relief sought.

(2) The Director must send a written response to the appeal or protest within ten calendar days of the Director's receipt of the appeal or protest.

(3) If the decision of the Director is not satisfactory to the offeror, bidder or contractor, the offeror, bidder or contractor has ten calendar days from the receipt of the Director's decision to request, in writing, a hearing before the Procurement Review Board. Such letter of request shall be addressed and delivered to the Office of the Director of Procurement Services.

(c) Procedures for hearings shall be as follows:

(1) A Procurement Review Board shall be established, to be comprised of three disinterested individuals,

each appointed by the Director for one-year terms. At the Director's discretion, the Director may reappoint members for additional one-year terms. The members of the Procurement Review Board shall not be employees of the City.

(2) From the receipt of the letter requesting a hearing, the Office of the Director of Procurement Services has ten calendar days to inform the offeror, bidder or contractor of the date, time and location of the hearing. Notice of the hearing must be sent at least ten calendar days prior to the hearing date.

(3) At the hearing before the Procurement Review Board, there shall be an opportunity for both the offeror, bidder or contractor and the City to present pertinent information.

(4) The Procurement Review Board shall issue a written decision containing findings of fact. The findings of fact shall be final and conclusive and shall not be set aside unless they are:

a. Fraudulent, arbitrary or capricious;

b. So grossly erroneous as to imply bad faith; or

c. For denial of prequalification of a potential construction bidder;

such findings were not based upon the criteria for denial of prequalification set forth in Section 21-46. No determination on an issue of law shall be final if appropriate legal action pursuant to Section 21-169 is instituted in a timely manner.

(d) Any party to the administrative appeals procedure, including the City, shall be entitled to institute judicial review if such action is brought within 30 calendar days of receipt of the written decision of the Procurement Review Board.

(Code 1993, § 22.1-112; Code 2004, § 74-193; Code 2015, § 21-168)

Sec. 21-169. Legal actions.

(a) A bidder or offeror, actual or prospective, who is refused permission or disqualified from participating in bidding or competitive negotiations or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the Circuit Court of the City challenging that decision, which shall be reversed only if the petitioner establishes that the decision was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution, any applicable State law or regulation, or the terms or conditions of the invitation for bids or request for proposals or, for denial of prequalification of a potential construction bidder, that the decision to deny prequalification was not based upon the criteria for denial of prequalification set forth in Section 21-46(g). If the apparent low bidder, having been previously determined by the City to be not responsible, is found by the court to be a responsible bidder, the court may direct the City to award the contract, forthwith, to such bidder in accordance with the requirements of this section and the invitation for bids. Section 21-164(b) shall apply to any such award directed by the court.

(b) A bidder denied withdrawal of a bid under Section 21-53 may bring an action in the Circuit Court of the City challenging that decision, which shall be reversed only if the bidder establishes that the decision of the City was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the State constitution, any applicable State law or regulation, or the terms and conditions of the invitation for bids.

(c) A bidder, offeror or contractor may bring an action in the Circuit Court of the City challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not an honest exercise of discretion, but rather is arbitrary, capricious or not in accordance with the State constitution, applicable State law or regulation, or the terms and conditions of the invitation for bids or request for proposals.

(d) If injunctive relief is granted, the court, upon request of the City, shall require the posting of reasonable security to protect the City.

(e) A contractor may bring an action involving a contract dispute with the City in the Circuit Court of the City.

(f) A bidder, offeror or contractor need not utilize administrative procedures as provided in Section 21-168, but if those procedures are invoked by the bidder, offeror or contractor, the procedures shall be exhausted prior to

instituting legal action concerning the same procurement transaction unless the City Council adopts a resolution providing otherwise.

(g) Nothing in this section shall be construed to prevent the City from instituting legal action against a contractor.

(Code 1993, § 22.1-113; Code 2004, § 74-194; Code 2015, § 21-169)

Sec. 21-170. Alternative dispute resolution.

The City may enter into agreements to submit disputes arising from contracts entered into pursuant to this chapter to arbitration and to utilize mediation and other alternative dispute resolution procedures; however, such procedures entered into by the City shall be nonbinding.

(Code 1993, § 22.1-114; Code 2004, § 74-195; Code 2015, § 21-170)

Secs. 21-171—21-193. Reserved.

ARTICLE VI. DEVELOPMENT ASSISTANCE TO MINORITY BUSINESS ENTERPRISES AND EMERGING SMALL BUSINESSES*

***Cross reference**—Office of Minority Business Development, § 2-647 et seq.; Minority Business Enterprise and Emerging Small Business Advisory Board, § 2-822 et seq.; human rights, Ch. 17.

Sec. 21-194. Purpose.

The purpose of this article is to promote the wider participation by minority business enterprises and emerging small businesses in public contracts, either as general contractors or subcontractors, by assisting such businesses in their growth and development.

(Code 1993, § 22.1-126; Code 2004, § 74-231; Code 2015, § 21-194)

Sec. 21-195. Authority to establish programs to facilitate development and expand participation in public procurement.

In addition to the programs set forth in this article, the Office of Minority Business Development may establish other programs consistent with all provisions of this chapter to facilitate the growth, development and participation of minority business enterprises and emerging small businesses in public procurement transactions. Such programs shall be in writing and may include cooperation with the State Department of Minority Business Enterprise, the United States Small Business Administration and other public or private agencies.

(Code 1993, § 22.1-127; Code 2004, § 74-232; Code 2015, § 21-195; Ord. No. 2006-134-105, § 1, 5-8-2006)

Sec. 21-196. Sheltered market program.

The Office of Minority Business Development may establish a sheltered market program for minority business enterprises and emerging small businesses. Any such sheltered market program shall be designed to assist in the growth and development of minority business enterprises and emerging small businesses by providing them with the opportunity to compete against similar firms for certain contracts. The sheltered market program shall, at a minimum, require the following:

(1) That not more than 50 percent of all contracts procured by competitive sealed bidding and competitive negotiation as required by this chapter with a value under $200,000.00 be procured only from minority business enterprises and emerging small businesses qualifying as participants in the sheltered market program;

(2) That all contracts procured under small purchase or other provisions of this chapter that exempt such contracts from competitive sealed bidding and competitive negotiation requirements first be solicited solely from participants in the sheltered market program offered by the City where there are qualified, willing and able participants;

(3) Each participant in the sheltered market program to submit to a business needs assessment and to obtain technical assistance offered by a technical assistance program in those areas where such assistance is shown to be necessary; and

(4) Any participant in the sheltered market program serving as a prime contractor for a City contract to offer all subcontracting opportunities to other participants in the sheltered market program prior to hiring other businesses as subcontractors.

(Code 1993, § 22.1-128; Code 2004, § 74-233; Code 2015, § 21-196; Ord. No. 2006-134-105, § 1, 5-8-2006)

Secs. 21-197—21-215. Reserved.

ARTICLE VII. UTILIZATION OF MINORITY BUSINESS ENTERPRISES AND EMERGING SMALL BUSINESSES*

***Cross reference**—Office of Minority Business Development, § 2-647 et seq.; Minority Business Enterprise and Emerging Small Business Advisory Board, § 2-822 et seq.; human rights, Ch. 17.

DIVISION 1. GENERALLY

Sec. 21-216. Purpose.

The purpose of this article is to increase the number of minority business enterprises and emerging small businesses that participate meaningfully in all contracts. To this end, the City shall use good faith efforts and shall require good faith efforts by all parties who engage in contracting with the City to the following ends:

(1) To stimulate the creation and development of minority business enterprise and emerging small business contractors and subcontractors, and to advance in reasonable and responsible ways, and deliberately and consistently over the long-term, their entrance into and participation in contracts;

(2) To encourage, in reasonable and responsible ways and deliberately and consistently over the long-term, the participation of minority and local disadvantaged individuals at higher skill and responsibility levels within non-minority firms engaged in contracting and subcontracting; and

(3) To encourage voluntary efforts by the private sector aimed at increasing the participation of minority business enterprises and emerging small businesses in contracts.

(Code 1993, § 22.1-136; Code 2004, § 74-266; Code 2015, § 21-216)

Sec. 21-217. Covered contracts.

The City, in awarding contracts to its contractors, including suppliers, for the sale and furnishing of supplies, materials and equipment, for providing contractual services, and for writing and furnishing policies of insurance and surety bonds in which the City is the principal insured or party for whom such bond is written and for which policy of insurance or bond the premium charged is billed to the City, shall strive to obtain a minimum of 20 percent of same from minority business enterprises and emerging small businesses in the annual aggregate expenditure for such contracts and services.

(Code 1993, § 22.1-137; Code 2004, § 74-267; Code 2015, § 21-217)

Sec. 21-218. Applicability to non-City recipients of City funds.

To the maximum extent permitted by applicable law, all non-City recipients of more than $100,000.00 of City funds in a fiscal year shall comply in all respects with the requirements of this article in the expenditure of such funds. Further, such recipients shall be subject to an audit, at their sole expense, by the City Auditor of their compliance with the requirements of this article. The Mayor shall ensure that each ordinance he proposes which appropriates City funds to such recipients contains the requirements of this section as conditions of the appropriation.

(Code 1993, § 22.1-138; Code 2004, § 74-268; Code 2015, § 21-218; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-219. Discrimination prohibited.

In the solicitation or awarding of contracts, the City shall not discriminate because of race, religion, color, sex, or national origin of the bidder or offeror.

(Code 1993, § 22.1-139; Code 2004, § 74-269; Code 2015, § 21-219)

Sec. 21-220. Official goals for contracting with minority business enterprises and emerging small businesses.

(a) It shall be the official goal of the City to increase the dollar value of all contracts awarded to minority business enterprise and emerging small business contractors and subcontractors to the highest level that is reasonably achievable for any particular field of contracting.

(b) It is acknowledged that the availability of minority business enterprise and emerging small business contractors and subcontractors may be lower in some areas than in others and that this lack of availability may have an impact on the degree to which contractors can reasonably comply with this policy. Therefore, the Chief Administrative Officer shall take the current availability of minority business enterprise and emerging small business contractors and subcontractors, in addition to other factors, into consideration in the implementation and enforcement of this policy.

(Code 1993, § 22.1-140; Code 2004, § 74-270; Code 2015, § 21-220; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-221. Rules and regulations.

The Director, in cooperation with the Office of Minority Business Development, shall be authorized to promulgate rules and regulations to implement this article.

(Code 1993, § 22.1-141; Code 2004, § 74-271; Code 2015, § 21-221; Ord. No. 2006-134-105, § 1, 5-8-2006)

Secs. 21-222—21-250. Reserved.

DIVISION 2. ENFORCEMENT AND ACCOUNTABILITY

Sec. 21-251. Debarment of contractors for improper activities.

Any contractor, bidder or offeror, or any principal thereof or person associated therewith, found to have engaged in substantial and intentional misrepresentation concerning either good faith minority business enterprise and emerging small business participation efforts or minority ownership status shall be debarred from any City contracting for a period of two years. This debarment shall also extend to any successor firm substantially controlled or managed, whether directly or indirectly, by any officers of or persons associated with the debarred bidder, offeror or contractor. The Chief Administrative Officer or a designee thereof shall make this determination and shall report any such debarment in writing to the City Council.

(Code 1993, § 22.1-142; Code 2004, § 74-301; Code 2015, § 21-251; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-252. Racial discrimination in construction contract bonding and insurance.

In construction contracting, if any person is found by the Chief Administrative Officer or a designee to have engaged in discrimination on the basis of race in the granting of bonds or insurance to persons who contract with or desire to contract with the City, or to persons who receive subcontracts or desire to receive a subcontract in connection with a City contract, the person shall be deemed unqualified to submit a bond or insurance for any City construction contract unless and until the Chief Administrative Officer or a designee thereof determines that the discrimination has been purged and that adequate assurances have been made that it will not recur. Any determination by the Chief Administrative Officer of a violation of this section shall be reported in writing to the City Council.

(Code 1993, § 22.1-143; Code 2004, § 74-302; Code 2015, § 21-252; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-253. Chief Administrative Officer to enforce article and to make reports to City Council.

(a) The Chief Administrative Officer shall take all steps necessary to ensure that all agency heads, project managers and other officers and employees of the City comply fully with the requirements of this article. The failure of such officers and employees to comply with the requirements of this article shall be deemed grounds for disciplinary action, up to and including termination, pursuant to applicable personnel policies. Further, the Chief Administrative Officer shall monitor the compliance with this article by any non-City recipient of more than $100,000.00 in City funds in a fiscal year.

(b) At the conclusion of each fiscal year, the Chief Administrative Officer shall report to the City Council on the number and proportion of minority business enterprise, emerging small business and woman business enterprise contractors and subcontractors located in the Richmond Standard Metropolitan Statistical Area and on the level of minority business enterprise, emerging small business and woman business enterprise participation in

contracts that have been awarded by each agency of City government and by each non-City recipient of more than $100,000.00 in City funds during that fiscal year, both as to prime contractors and as to subcontractors. Such report shall include, but not be limited to, the following:

(1) The level of such minority business enterprise, emerging small business and woman business enterprise participation in City contracts by type of contract (i.e., professional services, nonprofessional services, construction, commodities or goods, etc.);

(2) The location of all City contractors categorized by type of contract (i.e., professional services, nonprofessional services, construction, commodities or goods, etc.);

(3) The extent to which minority business enterprises participating as contractors or subcontractors in contracts awarded by the City have their places of business in the City and, if not, where those minority business enterprises have their places of business; and

(4) A list of all waivers from the emerging small business and minority business enterprise participation requirements of this chapter granted by the Chief Administrative Officer indicating the reasons for each.

(c) For the purposes of this subsection, the term "woman business enterprise" means a business that cannot qualify as a minority business enterprise or as an emerging small business as defined in Section 21-4, at least 51 percent of which is owned and controlled or 51 percent woman-owned and operated by a woman or women or, in the case of a stock corporation, at least 51 percent of the stock of which is owned and controlled by a woman or women.

(Code 1993, § 22.1-144; Code 2004, § 74-303; Code 2015, § 21-253; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-254. Renewal of existing contracts.

No contract shall be renewed unless the contractor has first reported to the Chief Administrative Officer or a designee thereof on the good faith minority business enterprise and emerging small business participation efforts which have been made during the contract period.

(Code 1993, § 22.1-145; Code 2004, § 74-304; Code 2015, § 21-254; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 21-255. Chief Administrative Officer to provide sufficient staff.

The Chief Administrative Officer shall take all necessary steps to provide, on an ongoing basis, sufficient staff to the Department of Procurement Services and the Office of Minority Business Development to ensure that proper records and statistics are gathered and maintained to determine the effectiveness of the City's efforts to assist the development and use of minority business enterprises and emerging small businesses. The Chief Administrative Officer shall also provide sufficient staff to monitor and enforce contract compliance and to ensure that the requirements and objectives of this chapter are met.

(Code 1993, § 22.1-146; Code 2004, § 74-305; Code 2015, § 21-255; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2006-134-105, § 1, 5-8-2006)

Secs. 21-256—21-273. Reserved.

ARTICLE VIII. ETHICS IN PUBLIC CONTRACTING*

***Cross reference—**Officers and employees, § 2-57 et seq.

State law reference—Ethics in public contracting, Code of Virginia, § 2.2-4367 et seq.

Sec. 21-274. Purpose.

(a) The provisions of this article supplement, but shall not supersede, other provisions of law, including, but not limited to, the State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.; the Virginia Governmental Frauds Act, Code of Virginia, § 18.2-498.1 et seq.; and Code of Virginia, Title 18.2, Ch. 10, Arts. 2 and 3 (Code of Virginia, §§ 18.2-438 et seq. and 18.2-446 et seq.).

(b) The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.2-3100 et seq.).

(Code 1993, § 22.1-151; Code 2004, § 74-341; Code 2015, § 21-274)

State law reference—Similar provisions, Code of Virginia, § 2.2-4367.

Sec. 21-275. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Immediate family means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

Official responsibility means administrative or operating authority, whether immediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any claim resulting therefrom.

Pecuniary interest arising from the procurement means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.

Procurement transaction means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of the contract, and all phases of contract administration.

Public employee means any person employed by the City, including elected officials or appointed members of the City Council.

(Code 1993, § 22.1-152; Code 2004, § 74-342; Code 2015, § 21-275)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 2.2-4368.

Sec. 21-276. Proscribed participation by public employees in procurement transaction.

Except as may be specifically allowed by Code of Virginia, § 2.2-3112(B)(1)—(B)(3), no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the City when the employee knows that:

(1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;

(2) The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor, such as an officer, director, trustee, partner, or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

(3) The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

(4) The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(Code 1993, § 22.1-153; Code 2004, § 74-343; Code 2015, § 21-276)

State law reference—Similar provisions, Code of Virginia, § 2.2-4369.

Sec. 21-277. Solicitation or acceptance of gifts.

No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The City may recover the value of anything conveyed in violation of this section.

(Code 1993, § 22.1-154; Code 2004, § 74-344; Code 2015, § 21-276)

State law reference—Similar provisions, Code of Virginia, § 2.2-4371(A).

Sec. 21-278. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions

shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the City unless the employee or former employee provides written notification to the Chief Administrative Officer prior to commencement of employment by that bidder, offeror or contractor.

(Code 1993, § 22.1-155; Code 2004, § 74-345; Code 2015, § 21-278; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Similar provisions, Code of Virginia, § 2.2-4370.

Sec. 21-279. Gifts by bidders, offerors, contractors or subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

(Code 1993, § 22.1-156; Code 2004, § 74-346; Code 2015, § 21-279)

State law reference—Similar provisions, Code of Virginia, § 2.2-4371(B).

Sec. 21-280. Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his or her suppliers or his or her subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make or offer to make kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the City and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

(Code 1993, § 22.1-157; Code 2004, § 74-347; Code 2015, § 21-280)

State law reference—Similar provisions, Code of Virginia, § 2.2-4372.

Sec. 21-281. Participation in bid preparation; limitation on submitting bid for same procurement.

(a) No person who, for compensation, prepares an invitation for bids or request for proposals for or on behalf of the City shall submit a bid or proposal for that procurement or any portion thereof, or disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the Chief Administrative Officer may permit such person to submit a bid or proposal for that procurement or any portion thereof if the City determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interest of the City. This determination shall be stated in writing and kept as part of the procurement's records.

(b) For the purpose of this section only, the term "prepares" shall include, but not be limited to:

(1) Serving as a director or deputy director of the agency which has initiated the procurement;

(2) Serving as the Director of Procurement Services after the Department of Procurement Services has received information on an agency's intent to procure;

(3) Serving as the procurement manager for the agency which has initiated the procurement;

(4) Serving as the procurement officer in charge of the procurement;

(5) Assisting in the development of specifications for invitations for bids or requests for proposals;

(6) Attending an evaluation committee meeting that is closed to the public;

(7) Voting on or scoring a bid or proposal; or

(8) Any other participation in the procurement process which could lead to unfair advantage.

(c) The determination of disqualification under this section shall be made by the Chief Administrative Officer.

(d) A contractor submitting a bid or proposal may appeal a determination of disqualification under this section by following the administrative appeals procedure as provided in Section 21-168 or, in the alternative, instituting legal action as provided in Section 21-169.

(Code 1993, § 22.1-157.1; Code 2004, § 74-348; Code 2015, § 21-281; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Similar provisions, Code of Virginia, § 2.2-4373.

Sec. 21-282. Purchase of building materials, etc., from architect or engineer prohibited.

(a) No building materials, supplies or equipment for any building or structure constructed by or for the City shall be sold by or purchased from any person employed as an independent contractor by the City to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in Code of Virginia, § 2.2-3101.

(b) No building materials, supplies or equipment for any building or structure constructed by or for the City shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in such building or structure to the independent contractor employed by the City to furnish architectural or engineering services in which such person has a personal interest as defined in Code of Virginia, § 2.2-3101.

(c) The provisions of subsections (a) and (b) of this section shall not apply in cases of emergency.

(Code 1993, § 22.1-158; Code 2004, § 74-349; Code 2015, § 21-282)

State law reference—Similar provisions, Code of Virginia, § 2.2-4374.

Sec. 21-283. Certification of compliance required; penalty for false statements.

(a) The City may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this article.

(b) Any public employee required to submit a certification as provided in subsection (a) of this section who knowingly makes a false statement in such certification shall be punished as provided in Section 21-285.

(Code 1993, § 22.1-159; Code 2004, § 74-350; Code 2015, § 21-283)

State law reference—Similar provisions, Code of Virginia, § 2.2-4375.

Sec. 21-284. Misrepresentations prohibited.

No public employee having official responsibility for a procurement transaction shall:

(1) Knowingly falsify, conceal, or misrepresent a material fact;

(2) Knowingly make any false, fictitious or fraudulent statements or representations; or

(3) Make or use any false writing or document knowing the writing or document to contain any false, fictitious or fraudulent statement or entry.

(Code 1993, § 22.1-160; Code 2004, § 74-351; Code 2015, § 21-284)

State law reference—Similar provisions, Code of Virginia, § 2.2-4376.

Sec. 21-285. Penalty for violation.

Willful violation of any provision of this article shall constitute a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his or her employment.

(Code 1993, § 22.1-161; Code 2004, § 74-352; Code 2015, § 21-285)

State law reference—Similar provisions, Code of Virginia, § 2.2-4377.

Secs. 21-286—21-303. Reserved.

ARTICLE IX. PUBLIC-PRIVATE PARTNERSHIPS

Sec. 21-304. Purpose; definitions; application.

(a) *Purpose.* This article establishes procedures for the implementation by the City of the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), and the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.). Pursuant to State law, this article allows the City to create public-private partnerships for the development of a wide range of projects for public use if the City determines that:

(1) There is a need for the project; and

(2) Private involvement may provide the project to the public in a timely or cost-effective fashion.

(b) *Definitions.* Terms used in this article shall have the meanings ascribed to them by Code of Virginia, § 33.2-1800 or 56-575.1 or Section 21-4, unless the context clearly indicates a different meaning. The term "project" or "qualifying project," as used in this article, shall also refer to qualifying transportation facilities, unless the context clearly indicates a different meaning.

(c) *Application.* This article applies only to projects defined as "qualifying transportation facilities" under Code of Virginia, § 33.2-1800 or "qualifying projects" under Code of Virginia, § 56-575.1. Such projects include the following:

(1) Any education facility, including, but not limited to, a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education;

(2) Any building or facility for principal use by any public entity;

(3) Any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity;

(4) Utility and telecommunications and other communications infrastructure;

(5) A recreational facility;

(6) Technology infrastructure, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services; or

(7) Any road, bridge, tunnel, overpass, ferry, airport, mass transit facility, vehicle parking facility, port facility or similar commercial facility used for the transportation of persons or goods, together with any other property that is needed to operate the transportation facility, acquired, constructed, improved, maintained and/or operated by a private entity pursuant to the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.).

Nothing in this article shall be interpreted or construed to affect the City's duty to comply with any other applicable law not in conflict with the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.).

(d) *Cooperative process.* This subsection acknowledges that some projects may involve more than one responsible public entity and that the City may learn of its status as a responsible public entity for a project after proposals have been submitted to or a process already begun by another responsible public entity for that project. Notwithstanding any provision of this article to the contrary, the City may, at its sole discretion, when it determines that it is one of multiple responsible public entities for a project, enter into a cooperative process with other responsible public entities for that project using procedures adopted by another responsible public entity pursuant to applicable State law. The City may enter into such a cooperative process for a project at any phase in the other responsible public entity's process only if:

(1) A review committee convened pursuant to Section 21-305(f) determines in writing that:

a. The City is one of multiple responsible public entities for a project;

b. The process the City seeks to join and the procedures governing that process comply with applicable State law; and

c. It is in the best interests of the City to join in a cooperative process with one or more other responsible public entities for that project;

(2) The other responsible public entity agrees to allow the City to participate fully as a responsible public entity in such process;

(3) All proposers for that project provide the City with a copy of all documents and other information they have submitted to the other responsible public entity; and

(4) The proposer pays to the City all proposal review fees that Section 21-307(b) would require the proposer to pay if the proposer had initially submitted his proposal to the City.

(Code 1993, § 22.1-170; Code 2004, § 74-401; Code 2015, § 21-304; Ord. No. 2004-27-41, § 1, 2-23-2004)

Cross reference—Definitions generally, § 1-2.

Sec. 21-305. Proposal submission—Generally.

(a) *In general.* Proposals may be either solicited by the City or submitted to the City by a private entity on an unsolicited basis. In general, proposals should provide a concise description of the proposer's capabilities to complete the proposed qualifying project and the benefits to be derived from the project by the City. The City will consider project benefits occurring during the construction, renovation, expansion or improvement phase and during the life-cycle of the project. Each proposal shall identify specifically or conceptually any facility, building, infrastructure or improvement included in that proposal as part of a qualifying project. Proposals also shall include a comprehensive scope of work and a financial plan for the project, containing enough detail to allow an analysis by the City of the financial feasibility of the proposed project, including, but not limited to:

(1) The identity of any parties expected to provide financing for the project; and

(2) A statement indicating whether the proposer intends to request that the City provide resources for financing the project and the nature and extent of any such resources.

(b) *Receipt of proposals; clarifications.* All proposals, whether solicited or unsolicited, shall be submitted to the Director of Procurement Services. Each proposal submitted under this article shall be clearly identified as a "PPEA proposal." Further, the City may require that any proposal be clarified. Such clarification may include, but need not be limited to:

(1) Submission of additional documentation;

(2) Responses to specific questions; and

(3) Interviews with potential project participants.

(c) *Affected local jurisdictions.* Any private entity requesting approval from or submitting a conceptual or detailed proposal to the City shall provide each affected local jurisdiction with a copy of the private entity's request for proposal by certified mail, express delivery or hand delivery. Affected local jurisdictions other than the City shall have 60 calendar days from the receipt of the request for proposal to submit written comments to the City and to indicate whether the proposed qualifying project is compatible with that affected local jurisdiction's:

(1) Local comprehensive plan;

(2) Local infrastructure development plans; or

(3) Capital improvements budget or other government spending plan.

Comments received within the 60-day period shall be given consideration by the City, and no negative inference shall be drawn from the absence of comment by an affected local jurisdiction.

(d) *Commitment to minority business opportunities.* The City is committed to providing contracting and subcontracting opportunities for minority business enterprises. It is the policy of the City that:

(1) This article shall not be used to circumvent other provisions of this chapter relating to participation by minority business enterprises in City projects; and

(2) All criteria set forth in this chapter related to participation by minority business enterprises in City projects be applied fully to all proposals, solicited or unsolicited, received by the City pursuant to this article.

(e) *Two-phase process.* The City shall require proposers to follow a two-part proposal submission process consisting of a conceptual phase and a detailed phase. The conceptual phase proposal shall contain specified information on proposer qualifications and experience, project characteristics, project financing, anticipated public support or opposition, or both, and project benefit and compatibility. The detailed phase proposal shall contain specified deliverables.

(f) *Review committee.* A review committee shall review all proposals, whether solicited or unsolicited, received pursuant to this article. At a minimum, the review committee shall consist of:

(1) The Director of Procurement Services or a designee thereof;

(2) A representative of the Office of Minority Business Development;

(3) A representative of each department or other agency of the City affected by the proposal; and

(4) A person selected by the City Council to represent it.

The review committee may include such other members as it deems essential to the review of the proposal, including external consultants.

(g) *Freedom of information; confidential proprietary information.*

(1) *In general.* Proposal documents submitted by private entities are subject to the Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq. The City shall release those documents if requested as required by that Act, except to the extent that they relate to:

a. Confidential proprietary information submitted to the City under a promise of confidentiality; or

b. Memoranda, working papers or other records related to proposals if making public such records would adversely affect the financial interest of the City or the private entity or the bargaining position of either party. Once a comprehensive agreement has been entered into, and the process of bargaining of all phases or aspects of the comprehensive agreement is complete, the City shall make available, upon request, procurement records in accordance with Section 21-5.

(2) *Invocation of exclusion from disclosure requirement.*

a. When the private entity requests that the City not disclose information, the private entity must:

1. Invoke the exclusion when the data or materials are submitted to the City;

2. Identify the data and materials for which protection from disclosure is sought; and

3. State why the exclusion from disclosure is necessary.

b. A private entity may request and receive a determination from the City as to the anticipated scope of protection prior to submitting the proposal. The City is authorized and obligated to protect only confidential proprietary information, and thus will not protect any portion of a proposal from disclosure if the entire proposal has been designated confidential by the proposer without reasonably differentiating between the proprietary and nonproprietary information contained therein.

(3) *Advance determination of exclusion from disclosure requirement.* Upon receipt of a request that designated portions of a proposal be protected from disclosure as confidential and proprietary, the City shall determine whether such protection is appropriate under applicable law and, if appropriate, the scope of such protection, and shall communicate its determination to the proposer. If the determination regarding protection or the scope thereof differs from the proposer's request, then the City shall accord the proposer a reasonable opportunity to clarify and justify its request. Upon a final determination by the City to accord less protection than requested by the proposer, the proposer shall be accorded an

opportunity to withdraw its proposal. A proposal so withdrawn shall be treated in the same manner as a proposal not accepted for publication and conceptual phase consideration as provided in Section 21-307(c).

(Code 1993, § 22.1-171; Code 2004, § 74-402; Code 2015, § 21-305; Ord. No. 2004-27-41, § 1, 2-23-2004; Ord. No. 2006-134-105, § 1, 5-8-2006; Ord. No. 2011-159-2012-163, § 1, 10-8-2012)

Sec. 21-306. Proposal submission—Solicited proposals.

(a) *In general.* The City may solicit bids or proposals from private entities to acquire, construct, improve, renovate, expand, maintain, operate, implement or install qualifying projects or to design or equip projects so constructed, improved, renovated, expanded, maintained, operated, implemented or installed. The City may schedule and hold pre-bid or pre-proposal conferences as it deems appropriate.

(b) *Methods of solicitation.* When proceeding under this article, the City shall use competitive sealed bidding as defined in Section 21-4 to procure a comprehensive agreement concerning a qualifying project. However, the City may use competitive negotiation as defined in Section 21-4 and as outlined for the procurement of nonprofessional services in Article II of this chapter to procure a comprehensive agreement concerning a qualifying project if the Director determines in writing, stating the reasons for the determination, that the use of competitive negotiation is likely to be advantageous to the City and the public, based on:

(1) The probable scope, complexity or urgency of the project; or

(2) Risk sharing, added value, an increase in funding or economic benefit from the project that would not otherwise be available.

(c) *Contents of solicitation.* The solicitation may invite bidders or offerors to submit bids or proposals on individual projects identified by the City. The City shall set forth in the solicitation the format and supporting information required to be submitted. The solicitation shall contain or incorporate by reference the applicable terms and conditions, including any unique capabilities or qualifications that will be required of the private entities submitting proposals.

(d) *Public notice.* The City shall post, publish and otherwise advertise the solicitation as required by this chapter and in the manner in which the City customarily posts, publishes and advertises its invitations to bid or requests for proposals.

(Code 1993, § 22.1-172; Code 2004, § 74-403; Code 2015, § 21-306; Ord. No. 2004-27-41, § 1, 2-23-2004)

Sec. 21-307. Proposal submission—Unsolicited proposals.

(a) *In general.* The City may receive, evaluate and select for negotiations unsolicited proposals from private entities to acquire, construct, improve, renovate, expand, maintain, operate, implement or install a qualifying project or to design or equip projects so constructed, improved, renovated, expanded, maintained, operated, implemented or installed. The City may publicize its needs and may encourage interested parties to submit proposals subject to the terms and conditions of this article and the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), as applicable. Any proposal submitted pursuant to this article that is not received in response to an invitation for bids or a request for proposals shall be treated as an unsolicited proposal under this article. Such unsolicited proposals include, but are by no means limited to:

(1) Proposals received in response to a notice of the prior receipt of another unsolicited proposal as provided for in subsection (d) of this section; and

(2) Proposals received in response to publicity by the City concerning particular needs when the City has not issued a corresponding invitation for bids or request for proposals, even if the City otherwise has encouraged the submission of proposals pursuant to this article that address those needs.

(b) *Proposal review fee.*

(1) *In general.* The City may seek the advice of internal staff or outside advisors or consultants with relevant experience in determining whether to enter into a comprehensive agreement with a private entity as the

result of an unsolicited proposal. The City may charge a fee to the private entity submitting any unsolicited proposal or competing unsolicited proposal to cover the costs of processing, reviewing, and evaluating that unsolicited proposal or competing unsolicited proposal submitted under this article and the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), including a fee to cover the costs of outside attorneys, consultants and financial advisors.

(2) *Fee to be reasonable.* Any fee charged for such review of a proposal shall be reasonable in comparison to the level of expertise required to review the proposal, shall generally be in the amount necessary to cover all of the City's costs and shall not be greater than the direct costs associated with evaluating the proposed qualifying project. Direct costs may include the:

a. Cost of staff time, including overhead;

b. Cost of any materials, supplies or other resources; and

c. Out-of-pocket costs of attorneys, financial advisors, and other advisors or consultants expended by the City, in its sole discretion, to assist in processing, evaluating, reviewing and responding to the proposal.

(3) *Calculation of fee.* The City may charge the proposal review fee in two parts. The first part of the proposal review fee shall be in the amount of 2 1/2 percent of the value of the qualifying project under the submitted proposal, except that, notwithstanding the preceding, this initial fee shall be no less than $2,500.00 and no more than $50,000.00, and shall be included by the private entity as part of its submitted proposal. The second part of the proposal review fee shall consist of the remaining direct costs not covered by the first part of the proposal review fee and shall be imposed by the City throughout the processing, review and evaluation of the proposal if and as the City reasonably anticipates incurring costs in excess of the first part of the proposal review fee. The City shall notify the proposer of the amount of such additional direct costs as and when it anticipates incurring such costs. Prompt payment of such costs shall be required before the City will continue to process, review and evaluate the proposal.

(4) *Refund of all or part of fee.* The City shall refund all fees submitted by a private entity in connection with an unsolicited proposal if the City decides not to proceed to publication and conceptual phase review of the unsolicited proposal. The City shall refund any portion of fees paid in excess of its direct costs associated with evaluating a proposal. In the event the City chooses to consider more than one proposal in the detailed phase of review, the City shall not refund the fees paid by an unsuccessful proposer for costs incurred during the detailed phase of review.

(c) *Decision to accept and consider unsolicited proposal.* Upon receipt of any unsolicited proposal or group of proposals and payment of any required fee by the proposer or proposers, the City, in its sole discretion, shall determine whether to accept the unsolicited proposal for publication and conceptual phase consideration. If the City, in its sole discretion, determines not to accept the proposal and proceed to publication and conceptual phase consideration, it will return the proposal, together with all fees and accompanying documentation, to the proposer. The City may reject or discontinue its evaluation of any proposal at any time. Further, if the City determines that it is in the City's interest to do so with respect to any unsolicited proposal, the City may eliminate review at the conceptual stage and proceed directly to a review at the detailed stage.

(d) *Public notice of receipt of unsolicited proposal.*

(1) If the City chooses to accept an unsolicited proposal for conceptual phase consideration, it shall post a notice in a public area regularly used by the City for posting of public notices for a period of not less than 45 calendar days. The City shall also publish the same notice in the Virginia Business Opportunities publication and in one or more newspapers or periodicals of general circulation in the City to notify any parties that may be interested in submitting competing unsolicited proposals. In addition, the notice may be advertised in such other publications as the Director may deem advantageous to the City. Such notice shall be so posted and published as to allow for a reasonable period determined by the Director to be appropriate to encourage competition and public-private partnerships pursuant to the goals of this article, such period not to be less than 45 calendar days, during which the City will receive competing proposals

pursuant to this article and the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), as applicable. The notice shall state that the City:

a. Has received and accepted an unsolicited proposal under the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), as applicable;

b. Intends to evaluate the proposal;

c. May negotiate a comprehensive agreement with the proposer based on the proposal; and

d. Will accept for simultaneous consideration any competing proposals that comply with this article and the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), as applicable.

(2) The notice also shall summarize the proposed qualifying project or projects and identify their proposed location or locations. Copies of unsolicited proposals shall be available upon request, subject to the provisions of:

a. Section 21-5;

b. The Virginia Freedom of Information Act, codified in Code of Virginia, Title 2.2, Ch. 37 (Code of Virginia, § 2.2-3700 et seq.); and

c. Code of Virginia, § 56-575.4(G).

During the 45-calendar-day period for receiving competing unsolicited proposals, the City may continue to evaluate the original unsolicited proposal.

(Code 1993, § 22.1-173; Code 2004, § 74-404; Code 2015, § 21-307; Ord. No. 2004-27-41, § 1, 2-23-2004)

Sec. 21-308. Proposal submission—Format of proposals.

(a) *Conceptual phase proposals.* At a minimum, conceptual phase proposals shall contain information in the following areas:

(1) *Qualification and experience.* Proposals shall:

a. Identify the legal structure of the firm or consortium of firms making the proposal and identify the organizational structure for the project, the management approach and how each partner and major subcontractor in the structure fits into the overall team.

b. Describe the experience of the firm or consortium of firms making the proposal and the key principals involved in the proposed project, including experience with projects of comparable size and complexity, and describe the length of time in business, business experience, public sector experience and other engagements of the firm or consortium of firms.

c. Provide the names, addresses, and telephone numbers of persons within the firm or consortium of firms who may be contacted for further information.

d. Provide a current or most recently audited financial statement of the firm or firms and each partner with an equity interest of 20 percent or greater.

(2) *Project characteristics.* Proposals shall:

a. Provide a description of the project, including the conceptual design and, for transportation facilities, all proposed interconnections with other transportation facilities; describe the proposed project in sufficient detail so that type and intent of the project, the location, and the communities that may be affected are clearly identified; and describe all assumptions used in developing the project.

b. Identify and fully describe any work to be performed by the City.

c. Include a list of all Federal, State and local permits and approvals required for the project and a schedule for obtaining such permits and approvals, and identify any permits, approvals or other rights that the City is to obtain, including, but not limited to, rights from railroads.

d. Identify any anticipated adverse social, economic and environmental impacts of the project and specify the strategies or actions to mitigate known impacts of the project.

e. Identify the projected positive social, economic and environmental impacts of the project.

f. Identify the proposed schedule for the work on the project, including the estimated time for completion.

g. Propose allocation of risk and liability for work completed beyond the agreement's completion date, and assurances for timely completion of the project.

h. State assumptions related to ownership, legal liability, law enforcement and operation of the project.

i. Provide information relative to phased or partial openings of the proposed project prior to completion of the entire work.

(3) *Project financing.* Proposals shall:

a. Provide preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.

b. Submit a plan for the development, financing and operation of the project showing the anticipated schedule on which funds will be required and describe proposed sources and uses for such funds.

c. Include a list and discussion of assumptions underlying all major elements of the plan.

d. Identify the proposed risk factors and methods for dealing with these factors.

e. Identify any local, State or Federal resources that the proposer contemplates requesting for the project and describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment.

(4) *Project benefit and compatibility.* Proposals shall:

a. Identify who will benefit from the project, how they will benefit and how the project will benefit the City, the overall community, region, or State.

b. Identify any anticipated public support or opposition, as well as any anticipated government support or opposition, for the project.

c. Explain the strategy and plans that will be carried out to involve and inform the general public, business community, and governmental agencies in areas affected by the project.

d. Describe in detail the proposer's proposed commitments to facilitate participation by minority business enterprises in the project and identify joint ventures and subcontractors.

e. Describe the anticipated significant benefits to the City, the community, region or State including anticipated benefits to the economic condition of the City and whether the project is critical to attracting or maintaining competitive industries and businesses to the City or the surrounding region.

f. Describe the project's compatibility with the City's local comprehensive plan, local infrastructure development plans, local and Statewide transportation plans, and the City's capital improvement program budget or other applicable government spending plans.

(b) *Detailed phase proposals.* If the City decides to proceed to the detailed phase of review with one or more proposals, the following information shall be provided by the private entity which submitted such proposal, unless waived by the City in writing:

(1) A topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project.

(2) A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the proposer to accommodate such crossings.

(3) A statement setting out the plans for securing all necessary property. The statement must include the names and addresses, if known, of the current owners of the subject property as well as a list of any property the proposer intends to request the City to condemn.

(4) A detailed listing of all firms that will provide specific design, construction and completion guarantees and warranties and a brief description of such guarantees and warranties.

(5) A total life-cycle cost specifying methodology and assumptions of the project or projects and the proposed project start date. The life-cycle cost analysis shall include anticipated commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis shall include a detailed analysis of the projected return, rate of return, or both.

(6) A detailed discussion of assumptions about user fees or rates, and usage of the projects and, for transportation facilities, a detailed discussion of toll rates and traffic forecasts and assumptions.

(7) Identification of any known government support or opposition, or general public support or opposition for the project. Government or public support may be demonstrated through resolution of official bodies, minutes of meetings, letters, or other official communications.

(8) Demonstration of consistency with the appropriate City's local comprehensive, transportation or infrastructure development plans or indication of the steps required for acceptance into such plans.

(9) Explanation of how the proposed project would impact local development plans of the City and each affected local jurisdiction.

(10) Identification of any known conflicts of interest or other disabilities that may affect the City's consideration of the proposal.

(11) Such additional material and information as the City may reasonably request.

(Code 1993, § 22.1-174; Code 2004, § 74-405; Code 2015, § 21-308; Ord. No. 2004-27-41, § 1, 2-23-2004)

Sec. 21-309. Proposal review—Conceptual phase.

(a) *Requirements for initial review.* Only proposals complying with the requirements of this article and the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), as applicable, which contain sufficient information for a meaningful evaluation and that are provided in an appropriate format as set forth in Section 21-308(a) will be considered by the City for further review in the conceptual phase.

(b) *Determination of method of procurement.* For unsolicited proposals, the City shall determine in the conceptual phase review under what method of procurement it will proceed to procure a comprehensive agreement using the criteria set forth in Section 21-306(b).

(c) *Result of review.*

(1) After reviewing the original proposal and any competing proposals submitted during the notice period, the City may determine:

a. Not to proceed further with any proposal;

b. To proceed to the detailed phase of review with the original proposal;

c. To proceed to the detailed phase with a competing proposal; or

d. To proceed to the detailed phase with multiple proposals.

(2) The City shall have the right to reject any proposal at any time for any reason whatsoever. No action or other recourse shall lie against the City or its officers, employees, agents or volunteers for any such

rejection.

(Code 1993, § 22.1-175; Code 2004, § 74-406; Code 2015, § 21-309; Ord. No. 2004-27-41, § 1, 2-23-2004)

Sec. 21-310. Proposal review—Evaluation and selection.

In evaluating and selecting proposals submitted pursuant to this article, the City shall consider the following:

(1) *Qualifications and experience.* The City shall consider the following factors in determining whether the proposer possesses the requisite qualifications and experience:

a. Experience with similar infrastructure projects;

b. Demonstration of ability to perform work;

c. Leadership structure;

d. Project manager's experience;

e. Management approach;

f. Financial condition; and

g. Project ownership.

(2) *Project characteristics.* The City shall consider the following factors in evaluating the project characteristics:

a. Project definition;

b. Proposed project schedule;

c. Operation of the project;

d. Technology; technical feasibility;

e. Conformity to laws, regulations, and standards;

f. Environmental impacts;

g. Federal, State and local permits; and

h. Maintenance of the project.

(3) *Project financing.* The City shall consider the following factors in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project:

a. Cost and cost benefit to the City;

b. Financing and the impact on the debt or debt burden of the City;

c. Financial plan;

d. Estimated cost; and

e. Life-cycle cost analysis.

(4) *Project benefit and compatibility.* The City shall consider the following factors in determining the proposed project's compatibility with the appropriate local or regional comprehensive or development plans:

a. City and community benefits;

b. City and community support or opposition, or both;

c. Public involvement strategy;

d. Commitment to facilitate participation by minority business enterprises in the project;

e. Use of transparent competitive procurement policies adequate to maximize competitive bidding opportunities for potential subcontractors and suppliers;

f. Compatibility with applicable comprehensive, transportation and other governmental plans;

g. Compatibility with existing City facilities; and

h. Compatibility with City, local, regional, and State economic development efforts.

(5) *Approval of transportation facilities.* The City shall not approve any transportation facility unless it determines that the transportation facility serves the public purpose of the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title 33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), by meeting the requirements of Code of Virginia, § 33.2-1803(C).

(Code 1993, § 22.1-176; Code 2004, § 74-407; Code 2015, § 21-310; Ord. No. 2004-27-41, § 1, 2-23-2004)

Sec. 21-311. Comprehensive agreement.

(a) *In general.* Prior to acquiring, designing, constructing, improving, renovating, expanding, equipping, maintaining, or operating the qualifying project, the selected proposer shall enter into a comprehensive agreement with the City. The City's review committee will be responsible for negotiating the comprehensive agreement. Each comprehensive agreement shall define the rights and obligations of the City and the selected proposer with regard to the project.

(b) *Terms and conditions.* The terms and conditions of the comprehensive agreement shall include, but shall not be limited to:

(1) The delivery of maintenance, performance and payment bonds or letters of credit in connection with the acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project, in the forms and amounts satisfactory to the City.

(2) The review of plans and specifications for the qualifying project by the City and approval by the City if the plans and specifications conform to standards acceptable to the City.

(3) The rights of the City to inspect the qualifying project to ensure that the operator's activities are acceptable to the City in accordance with the provisions of the comprehensive agreement.

(4) The maintenance of a policy or policies of liability insurance or self-insurance, copies of which shall be filed with the City accompanied by proofs of coverage, in form and amount satisfactory to the City and reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project.

(5) The monitoring of the practices of the operator by the City to ensure that the qualifying project is properly maintained.

(6) The terms under which the operator will reimburse the City for services provided by the City.

(7) The terms under which the operator will file appropriate financial statements on a periodic basis.

(8) The policies and procedures that will govern the rights and responsibilities of the City and the operator in the event that the comprehensive agreement is terminated or there is a material default by the operator, including the conditions governing assumption of the duties and responsibilities of the operator by the City and the transfer or purchase of property or other interests of the operator by the City.

(9) The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be set at a level that are the same for persons using the facility under like conditions and that will not materially discourage use for the qualifying project. Provisions for the following shall also be included:

a. A copy of any service contract shall be filed with the City.

b. A schedule of the current user fees or lease payments shall be made available by the operator to any member of the public upon request.

c. Classifications according to reasonable categories for assessment of user fees may be made.

(10) The terms and conditions under which the City may contribute financial or in-kind resources, if any, for the qualifying project.

(11) Other provisions that the Public-Private Transportation Act of 1995, codified in Code of Virginia, Title

33.2, Ch. 18 (Code of Virginia, § 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002, codified in Code of Virginia, Title 56, Ch. 22.1 (Code of Virginia, § 56-575.1 et seq.), may require or that the City may deem necessary.

(c) *Use of public funds.* All constitutional and statutory requirements applicable to the appropriation and expenditure of public funds apply to any comprehensive agreement entered into under this article. The processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into any comprehensive agreement into which the City enters.

(Code 1993, § 22.1-177; Code 2004, § 74-408; Code 2015, § 21-311; Ord. No. 2004-27-41, § 1, 2-23-2004)

Chapter 22

PUBLIC RETIREMENT*

***Charter reference—**Richmond Retirement System, Ch. 5B.

Cross reference—Administration, Ch. 2; officers and employees, § 2-57 et seq.; finance, Ch. 12.

State law reference—Retirement systems authorized, Code of Virginia, § 15.2-1510; local retirement systems, Code of Virginia, § 51.1-800 et seq.

ARTICLE I. IN GENERAL

Sec. 22-1. Preamble.

(a) The Richmond Retirement System, established by Ordinance No. 52-192-178, as amended, was restated and amended by Ordinance No. 90-357-325 and has been subsequently amended by various ordinances adopted by the City Council from time to time.

(b) By Ordinance No. 2002-150-167, the City Council amends and restates the retirement chapter generally effective June 10, 2002. Certain provisions have retroactive effective dates as indicated in the text in order to comply with Federal tax laws. The purpose of the amendment and restatement is to ensure compliance with Federal tax laws and to streamline the administration of the benefits provided under this chapter.

(c) The adoption of Ordinance No. 2002-150-167 shall neither alter nor modify any retirement allowance awarded any member prior to July 1, 2002, nor shall it modify or alter any option which may have been elected by any member prior to June 10, 2002, whether such option pertains to early retirement, deferred retirement or survivor's benefits. This chapter shall apply to all retirement allowances or other benefits awarded pursuant to the death or retirement of a member on or after June 10, 2002, unless specifically stated. Nothing in this amendment and restatement of the retirement chapter shall decrease creditable service or creditable compensation under the terms of the chapter as it existed prior to its amendment and restatement. In addition, the benefits of any member who has no service on or after the date of this restatement of the chapter shall neither be increased nor decreased as a result of the restatement.

(Code 1993, § 23.1-1; Code 2004, § 78-1; Code 2015, § 22-1)

Sec. 22-2. Definitions.

As used in this chapter, the following words shall have the meanings respectively ascribed to them by this section, unless a different meaning is plainly required by the text:

Abolished system means the ordinance approved August 10, 1944, establishing the Richmond Retirement System and all ordinances amendatory thereof, repealed by Ordinance No. 52-189-175.

Actuarial equivalent shall generally be computed based on eight percent interest and the (UP84) unisex mortality table except where different factors are specifically set forth in this chapter, or are adopted by the Board and set forth in the administrative procedures manual maintained by the Board.

Appointing authority means the agency or department within the participating employer having the power to hire the services of a member.

Average final compensation means the average annual creditable compensation of a member during the member's 36 consecutive months of creditable service in which such compensation was at its greatest amount or during the entire period of the member's creditable service if less than 36 months.

Beneficiary means any person, other than a member, entitled to receive benefits under this chapter.

Board means the Board of Trustees provided for by Section 5B.01 of the Charter and Article II of this chapter.

City means the City of Richmond, Virginia.

City Council means the Council of the City of Richmond.

Covered compensation means the average of the Social Security taxable wage bases in effect for each calendar

year during the 35-year period ending with the calendar year in which Social Security retirement age is attained.

Creditable compensation means the base compensation payable to an eligible employee working the full working time for such employee's position, plus shift differentials, bonuses, severance pay, and educational incentive pay, but excluding overtime pay, imputed income under Section 79 of the Internal Revenue Code, and lump sum payment for unused sick or vacation leave. Creditable compensation shall include compensation subject to a salary reduction or deferred compensation agreement between an employee and the participating employer pursuant to Section 125, 132(f)(4) (for plan years and limitation years beginning on or after January 1, 2001), 402(g)(3) or 457(b) (both elective and non-elective) of the Internal Revenue Code (and elective deferrals or contributions under any other sections of the Internal Revenue Code covered by Section 415(c)(3)(D) of the Internal Revenue Code), which compensation is not actually or constructively received by the employee.

Creditable service means service as described in Article VI of this chapter.

Disability retirement means a retirement described in Article VIII of this chapter that is based on a member's disability and not upon a member's age and service.

Early service retirement means a retirement prior to normal retirement age that is based on age or service, or both, and not on a disability or death.

Eligible employee.

(1) The term "eligible employee" means any employee of a participating employer who is regularly employed on a full-time basis, except elected officials other than members of the City Council and members of the judicial retirement system. Persons employed on a temporary, part-time, seasonable or provisional basis shall not by reason thereof be entitled to creditable service for such period of employment except as otherwise provided herein. In case of doubt, the Board shall decide who is an eligible employee.

(2) For purposes hereof, the term "full-time basis" generally means for periods after September 1, 1991, normally scheduled to work at least 40 hours per week, provided exceptions will be based upon the provisions of the Code in effect at the time the service was rendered.

(3) An employee of a participating employer who elects to participate in the deferred retirement option program (DROP) established pursuant to Section 22-204 shall cease to be an eligible employee upon the effective date of his participation in the DROP.

(4) An employee of a participating employer who elects to participate in the defined contribution plan established pursuant to Section 22-142 shall not become, or shall cease to be, an eligible employee for purposes of the service retirement benefits provided under this chapter and any death benefits described in Section 22-299 upon the effective date of his participation in such defined contribution plan. Notwithstanding, such an employee shall be entitled to retain the right to apply for any disability benefits provided under this chapter as though the defined contribution plan had not been elected, subject to the applicable offset.

(5) Notwithstanding the foregoing, employees, other than sworn police officers or firefighters or persons employed in the senior executive group as identified in Section 22-317(k), who are hired or rehired on or after July 1, 2006, shall not become or again become eligible employees for purposes of the service or early service retirement benefits provided under this chapter and any death benefit described in Section 22-299; provided, however, if an employee would be an eligible employee but for his date of hire or rehire, he or she shall be entitled to apply for any disability benefits provided under this chapter as though he or she were an eligible employee in the system, subject to the applicable offset. Such employees shall only be eligible to participate in the defined contribution plan established pursuant to Section 22-142 upon meeting the eligibility criteria for such plan. A sworn police officer or firefighter or person employed in the senior executive group as identified in Section 22-317(k) hired or rehired on or after July 1, 2006, may elect to participate in the defined contribution plan in lieu of becoming a member of the system.

Employee means any person employed in any capacity by a participating employer.

General member means any member who is not classified as a sworn police officer or firefighter.

Internal Revenue Code means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

Member means any eligible employee or former eligible employee who is currently or shall in the future be recognized as having membership in the system.

Medical examiner means the medical examiner or examiners, as provided by Section 22-234.

Normal retirement date means the first day of the month next following:

(1) For a general member, the 65th birthday of the member; and

(2) For a public safety member, the 60th birthday of the member.

Participating employer means the City and any employer who with the consent of the City Council upon recommendation by the Board shall adopt the system, provided that the employer is a governmental employer as defined in Section 414(d) of the Internal Revenue Code. The current participating employers are the City and the Richmond Behavioral Health Authority. The Board shall keep a record of the dates participation began. Employers that no longer participate in the system shall continue to be participating employers for purposes of the contribution requirement related to grandfathered members who are employed by such employers.

Public safety member means any member who is classified as a sworn police officer or firefighter.

Retirement allowance means the retirement payments to which a member is entitled, as provided in this chapter. The retirement allowance payable for the month in which the recipient dies shall be prorated through the date of death and paid to the recipient.

Service means service as an employee for which compensation is paid by a participating employer. Service as an employee shall not be recognized in more than one retirement system simultaneously for the same position.

Service retirement means a retirement that occurs at or after the member's normal retirement date.

Social Security retirement age means the age used for the participant's retirement age under Section 216(l) of the Social Security Act.

System means the Richmond Retirement System, as initially adopted November 18, 1952, by Ordinance No. 52-189-175 and subsequently amended and restated. In addition, effective July 1, 2006, the system includes all the provisions of this chapter other than Section 22-142.

Vested means that the member has five or more years of creditable service at some time on or after December 20, 1973, or had 15 years or more of creditable service prior to December 20, 1973, and have not withdrawn contributions at the time of termination.

(Code 1993, § 23.1-2; Code 2004, § 78-2; Code 2015, § 22-2; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-59-127, § 1, 5-30-2006; Ord. No. 2006-185-218, § 1, 7-24-2006; Ord. No. 2018-141, § 1, 5-14-2018)

Cross reference—Definitions generally, § 1-2.

Sec. 22-3. Duties of appointing authority.

The appointing authority and the Department of Human Resources shall keep such records and from time to time shall furnish such information as the Board may require in the discharge of its duties under this chapter. Upon employment of a member, the appointing authority and the Department of Human Resources shall inform the member of the member's duties and obligations in connection with the system as a condition of employment.

(Code 1993, § 23.1-3; Code 2004, § 78-3; Code 2015, § 22-3)

Sec. 22-4. Consent to chapter.

Each member shall be deemed to consent and agree to all the sections of this chapter and any amendments thereto, and receipt of salary or compensation shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by this chapter.

(Code 1993, § 23.1-4; Code 2004, § 78-4; Code 2015, § 22-4)

Sec. 22-5. Fraud.

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record of the Richmond Retirement System, in any attempt to defraud the system, shall be guilty of a Class 1 misdemeanor. Each such violation and each day's continuance thereof shall be a separate offense.

(Code 1993, § 23.1-5; Code 2004, § 78-5; Code 2015, § 22-5)

Sec. 22-6. Rights, benefits and plan money subject to and not subject to assignment, execution, garnishment or other process.

The benefits accrued or accruing to any member under the Richmond Retirement System shall be subject to Internal Revenue Service levies and child support payments, but shall not be subject to execution, levy, attachment, garnishment or any other process whatsoever nor shall any assignment of such benefits be enforceable in any court. Effective upon adoption of the ordinance from which the restatement of this chapter is derived, the provisions of this section prohibiting the assignment or alienation of benefits shall apply to a domestic relations order which is determined by the system to be an approved domestic relations order as defined by Section 414(p) of the Internal Revenue Code applicable to governmental plans. Only such orders accepted and approved prior to the effective date of the ordinance from which the restatement of this chapter is derived shall be honored.

(Code 1993, § 23.1-6; Code 2004, § 78-6; Code 2015, § 22-6)

Sec. 22-7. Alteration, amendment or repeal.

(a) The City Council reserves the right to alter, amend or repeal any section of this chapter or any application thereof to any person; provided, however, that the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the extent provided under subsection (e) of this section for the members or beneficiaries shall not be affected thereby.

(b) Such amendments shall apply to all participating employers unless the City Council specifically provides that such amendments may be rejected by participating employers and not be made applicable to employees of participating employers other than the City.

(c) If the City Council repeals the sections of this chapter, the Board shall continue to administer the system in accordance with this chapter for the sole benefit of the then-members, any beneficiaries then receiving retirement allowances, and any person entitled to receive benefits in the future under one of the options provided for in this chapter who are designated by any of such members.

(d) If the system is repealed without replacement by another retirement system to which the assets are transferred, each member shall become fully vested in the benefit accrued under the system through the date of its repeal, regardless of the member's years of creditable service.

(e) If repeal occurs as provided in subsection (c) of this section, the assets of the system shall be allocated by the Board in an equitable manner to provide benefits for the persons designated in subsection (c) of this section in accordance with this chapter, and in the following order:

(1) For the benefit of then beneficiaries and persons already designated by former members who are then beneficiaries under one of the options provided for in this article to the extent of the then actuarial value of their retirement allowances.

(2) If any funds remain, then for the benefit of members and beneficiaries, if any, designated by the members under one of the options provided for in this chapter, to the extent not provided under subsection (e)(1) of this section, of the then actuarial equivalent of their accrued retirement allowances, based on years of creditable service and average final compensation. The allocation under this subsection (e)(2) shall be on the basis of the oldest ages first method. If the assets at such date of repeal are insufficient to provide all of the benefits of subsection (e)(1) of this section, the participating employer will contribute to the assets from time to time, as and when required, the amount necessary to make up such insufficiency.

(f) The allocation of assets of the system provided for in subsection (e) of this section shall be carried out through the payment by the Board of the benefits provided for in this section as they become due or by the transfer of such assets to any retirement system replacing this system, provided that such vesting of benefits as provided by this section shall be fully maintained under such new retirement system. Any funds remaining in the assets of this

system after all of the vested benefits provided by this section have been paid shall revert to the general fund.

(g) Any allocation of assets made in accordance with the sections of this chapter shall be final and binding on all persons entitled to benefits under such sections.

(Code 1993, § 23.1-7; Code 2004, § 78-7; Code 2015, § 22-7)

Sec. 22-8. Cost-of-living adjustments.

(a) In addition to the monthly allowances payable under Articles VII, VIII and XI of this chapter, cost-of-living adjustments may be payable in accordance with the provisions of this section to the recipients of such allowances. Such adjustments shall be subject to the same conditions of payment as are such allowances. Cost-of-living adjustments shall also be added to the monthly allowances being credited to the deferred retirement option program (DROP) established pursuant to Section 22-204.

(b) The amounts of the cost-of-living adjustments provided for hereunder shall be determined as percentages of the allowances adjusted hereby. Except as may otherwise be specifically ordered by the City Council, such percentages shall be determined by reference to the increase, if any, in the United States Average Consumer Price Index for all items, as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the calendar year in which the allowance initially commenced as a result of the death or retirement of a member of the system to its monthly average for the calendar year immediately prior to the calendar year as of which the amount of the cost-of-living adjustment is determined, with such averages adjusted, if necessary, so as to relate to the same reference base period for the computation of such index.

(c) In accordance with Section 5B.02 of the Charter, the City Council shall make an annual review of the cost-of-living adjustments being paid in accordance with this section and Section 5B.02 of the Charter and shall determine whether or not such adjustments shall be recomputed and the effective date of any benefit increase which may result.

(Code 1993, § 23.1-8; Code 2004, § 78-8; Code 2015, § 22-8; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-9. Waiver of benefits.

Any member or beneficiary of the Richmond Retirement System, who is not currently in pay status, may, by a waiver signed by such member or beneficiary and filed with the Board and approved by it, decline to accept any part or all of the benefits to which the member or beneficiary is entitled under this article. Such waiver may be revoked at any time by a written revocation filed with the Board, but no payment of the waived benefits shall be made covering the period during which such waiver was in effect. Any such waiver or revocation of waiver shall become effective on the first day of the month following the date of the meeting of the Board at which such waiver or revocation of waiver is approved. Any member or beneficiary in pay status may not waive benefits.

(Code 1993, § 23.1-9; Code 2004, § 78-9; Code 2015, § 22-9)

Sec. 22-10. Conflict of interests.

No member of the Board shall have any interest, direct or indirect, in the gains or profits of any investment made pursuant to Section 22-83, save insofar as any such member may be a member or beneficiary of the Richmond Retirement System. No member of the Board shall, directly or indirectly, for personal motive or as an agent, in any manner use the funds or deposits of the retirement system, except to make such payments therefor as are authorized pursuant to this chapter. The provisions of the State and Local Government Conflict of Interest Act (Code of Virginia, § 2.2-3100 et seq.) shall apply to members of the Board.

(Code 1993, § 23.1-10; Code 2004, § 78-10; Code 2015, § 22-10)

Sec. 22-11. Exemption from Public Procurement Act.

The selection of services related to the management, purchase, or sale of authorized investments pursuant to this chapter, including, but not limited to, actuarial services, shall be governed by the standard of care in Section 22-83 and shall not be subject to the provisions of the Virginia Public Procurement Act (Code of Virginia, § 2.2-4300 et seq.) or to local procurement laws.

(Code 1993, § 23.1-11; Code 2004, § 78-11; Code 2015, § 22-11)

State law reference—Similar provisions, Code of Virginia, § 51.1-803(B).

Secs. 22-12—22-40. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 22-41. Administration of system.

The Board shall have the responsibility of:

(1) The supervision of the administration of the retirement plan;

(2) The determination of eligibility for the receipt of retirement benefits;

(3) The award of retirement benefits as authorized by ordinance; and

(4) Such other duties as have been exercised by the Board of Trustees of the system prior to the effective date of the ordinance from which this chapter is derived.

(Code 1993, § 23.1-12; Code 2004, § 78-41; Code 2015, § 22-41)

Cross reference—Boards, commissions, committees and other agencies, § 2-767 et seq.

Sec. 22-42. Board of Trustees generally.

(a) Each member of the Board of Trustees of the Richmond Retirement System shall discharge such member's duties with the care, skill, prudence, and diligence of a prudent person acting in like capacity and familiar with such matters.

(b) The members of the Board shall be appointed by City Council for terms of three years, and the Board shall consist of seven trustees, two of whom shall be members of the classified service.

(c) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(d) Each trustee shall be entitled to one vote on the Board, and a majority of its members shall constitute a quorum.

(Code 1993, § 23.1-13; Code 2004, § 78-42; Code 2015, § 22-42)

Sec. 22-43. Payment of trustees attending regular monthly meetings.

In any month in which a member of the Board of Trustees of the Richmond Retirement System, other than a member who is an employee of the City, attends the regular monthly meeting of the Board, the trustee so attending shall be entitled to receive the sum of $150.00 for the month, which payments shall be made from funds of the system generated from the earnings on investments.

(Code 1993, § 23.1-14; Code 2004, § 78-43; Code 2015, § 22-43)

Sec. 22-44. Election and appointment of Board officers; employment of services and expenses.

The Board of Trustees of the Richmond Retirement System shall elect from its membership a Chair and a Vice-Chair. The Board may employ actuarial, legal, medical and other services as shall be required as its technical advisors and incur such expenditures as it deems necessary for the efficient administration of this chapter within the limitations of funds provided by the City Council for that purpose.

(Code 1993, § 23.1-15; Code 2004, § 78-44; Code 2015, § 22-44)

Sec. 22-45. Rules and regulations of Board; authority to interpret terms.

Subject to the limitations of this chapter, the Board of Trustees of the Richmond Retirement System shall, from time to time, establish rules and regulations for the administration of the system and for the transaction of its business. The Board shall have the authority to interpret the terms of this chapter and to make determinations with respect to eligibility and benefits under the system in a manner consistent with this chapter.

(Code 1993, § 23.1-16; Code 2004, § 78-45; Code 2015, § 22-45)

Sec. 22-46. Record of proceedings.

The Board of Trustees of the Richmond Retirement System shall keep a record of all of its proceedings. To the extent otherwise permitted by law, such record shall not be a public record, but shall be open to inspection only by the members or by their duly authorized representatives and by such persons as shall be allowed by the Board for the purpose of administering this chapter.

(Code 1993, § 23.1-17; Code 2004, § 78-46; Code 2015, § 22-46)

Sec. 22-47. Board's legal advisor.

The City Attorney shall be the legal advisor of the Board of Trustees of the Richmond Retirement System unless internal conflict exists that would warrant outside legal counsel.

(Code 1993, § 23.1-18; Code 2004, § 78-47; Code 2015, § 22-47)

Sec. 22-48. Appointment of Executive Director as administrative officer; administrative agency of Board.

The Board of Trustees of the Richmond Retirement System shall appoint an Executive Director of the Board, who shall be the administrative officer of the Board and who shall perform such duties as the Board may require, which may include assisting in administering the fiscal and financial affairs of the Board. The Executive Director shall be a member of the unclassified service and shall be responsible to the Board for the performance of the Executive Director's duties and shall be the head of the administrative agency for carrying out the responsibilities of the Retirement Board.

(Code 1993, § 23.1-19; Code 2004, § 78-48; Code 2015, § 22-48; Ord. No. 2008-165-167, § 1, 7-14-2008)

Sec. 22-49. Correction of changes or errors in records resulting in erroneous payments.

(a) Should any change or error in records result in any member or beneficiary receiving from the Richmond Retirement System more or less than the member or beneficiary would have been entitled to receive had the records been correct, on discovery of any such error the Board shall correct it and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

(b) If a member or beneficiary has been overpaid through no fault of the member or beneficiary and could not reasonably have been expected to detect the error, the Board may waive any repayment which it believes would cause hardship.

(Code 1993, § 23.1-20; Code 2004, § 78-49; Code 2015, § 22-49)

Sec. 22-50. Written application for retirement benefits.

(a) In order to receive payment for any benefit, which becomes payable from the system, a member or his beneficiary shall complete the application and other forms prescribed by the system for approval by the Board. The Board shall have the authority to establish reasonable procedures governing the application for any benefits payable under the system. Such procedures shall be set forth in the administrative procedures manual maintained by the Board. For service retirement, the written application shall not be more than 90 days prior to or subsequent to the effective retirement date. For early service retirement, the written application shall not be more than 90 days prior to the effective retirement date.

(b) In order to participate in the deferred retirement option program (DROP) established pursuant to Section 22-204, a member shall complete the application and other forms required by this section for retirement benefits as well as any other forms and applications required under guidelines established pursuant to Section 22-204.

(Code 1993, § 23.1-21; Code 2004, § 78-50; Code 2015, § 22-50; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-51. Medical examiners.

The Board of Trustees of the Richmond Retirement System shall, from time to time, employ a minimum of three physicians, practicing in the City, upon such terms and conditions as the Board may prescribe. It shall be the duty of a medical examiner, at the request of the Board, to conduct or approve all medical examinations required under this chapter or by the Board. If such a request is made, a medical examiner shall investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under this chapter and shall report in writing to the Board pertinent conclusions and recommendations.

(Code 1993, § 23.1-22; Code 2004, § 78-51; Code 2015, § 22-51)

Sec. 22-52. Designation and duties of actuary; certification of contribution rates; adoption of tables.

(a) The Board shall designate an actuary or actuarial consulting firm who shall be the technical advisor of the Board on matters regarding the operation of the Richmond Retirement System and who shall perform such other duties as are required.

(b) The Board shall certify, from time to time, the rates of contribution payable under this chapter and shall adopt for the system, from time to time, such mortality, service and other actuarial tables as shall be deemed necessary. On the basis of such tables, the actuary shall make annually an actuarial valuation of the assets and liabilities of the system. At least once in each five-year period, the Board shall cause an actuarial investigation to be made into the mortality, service and compensation experience of the members and beneficiaries of the system. Such investigation shall be used as a basis for revisions to existing actuarial tables or the adoption of additional actuarial tables to be used to value the assets and liabilities of the system.

(Code 1993, § 23.1-23; Code 2004, § 78-52; Code 2015, § 22-52)

Sec. 22-53. Valuations.

The Board shall authorize a valuation to be made as of July 1 of each year of the assets and liabilities of the Richmond Retirement System and shall prepare an annual statement of the amounts to be contributed by the participating employers under this chapter.

(Code 1993, § 23.1-24; Code 2004, § 78-53; Code 2015, § 22-53)

Sec. 22-54. Publication of valuations and account.

The Board shall publish annually a valuation of the assets and liabilities and a statement of receipts and disbursements of the Richmond Retirement System.

(Code 1993, § 23.1-25; Code 2004, § 78-54; Code 2015, § 22-54)

Secs. 22-55—22-81. Reserved.

ARTICLE III. TRUST FUND AND INVESTMENTS*

***Cross reference—**Trust funds of the City, § 12-42 et seq.

Sec. 22-82. Retirement account; prohibition on diversion of system assets.

(a) All of the funds and assets of the Richmond Retirement System shall be held in trust and credited to a single retirement account in which shall be accumulated all contributions made pursuant to this chapter and to which all income from the invested funds and assets of the system shall be credited. From this account shall be paid the retirement allowances and the other benefits provided for in this chapter.

(b) Upon no circumstances at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries under the trust shall any part of the trust corpus or income of the system be used for or diverted to any purpose other than for the exclusive benefits of the members and their beneficiaries and for the reasonable administrative expenses of the system.

(Code 1993, § 23.1-26; Code 2004, § 78-81; Code 2015, § 22-82)

Sec. 22-83. Investments; standard of care.

(a) The City Council may appoint and employ a corporation, vested with fiduciary powers under either the laws of the United States or the Commonwealth, to be responsible for the investment of the funds of the Richmond Retirement System, which funds shall include any securities which may be part of the assets of such system. The Director of Finance shall be the disbursing officer for the payment of benefits awarded by the trustees of the system and as such shall perform such duties as may be required of the Director of Finance by ordinance, but shall receive no additional compensation on account of such duties.

(b) The City Council hereby delegates to the Board the power to enter into an arrangement with one or more qualified investment managers under which such manager shall invest the funds of the system. The Board shall

advise the Council in writing of any investment managers hired, terminated or replaced by the Board within 72 hours of such actions. The City Council shall periodically review the arrangements entered into by the Board pursuant to this section and may, at its discretion, terminate such arrangements pursuant to the termination provisions applicable to the arrangement.

(c) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total amount in the accounts of the system, on deposit in one or more banks or trust companies that are designated by the City Council as depositories for funds of the City, and neither the Board nor the City Council shall be liable for any loss sustained as to such funds that are on deposit in such banks or trust companies.

(d) The City Council and the Board shall discharge their duties with respect to the system solely in the interest of the members and beneficiaries of the system and shall invest the assets of the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and like aims. The City Council and the Board shall also diversify such investments so as to minimize large losses unless under the circumstances it is clearly prudent not to do so. Neither the Board nor the City Council shall be liable for any loss sustained by the fund resulting from decisions made by such entity in accordance with the standard of care set forth in this section.

(Code 1993, § 23.1-27; Code 2004, § 78-82; Code 2015, § 22-83; Ord. No. 2006-24-50, § 1, 2-27-2006)

Sec. 22-84. Custodian of funds; registration of securities; payment by check.

(a) The City Council hereby delegates to the Board the authority to designate one or more financial institutions to serve as the custodian of all the funds or securities, or both, of the Richmond Retirement System. The Director of Finance shall be the custodian of all the funds of the Richmond Retirement System, unless the Board has designated one or more financial institutions, which may include financial institutions hired as investment managers pursuant to Section 22-83, as the custodian of such funds. The Board shall advise the Council in writing of any financial institutions hired, terminated or replaced by the Board within 72 hours of such actions. The City Council shall periodically review the custodial arrangements entered into by the Board pursuant to this section and may, at its discretion, terminate such arrangements pursuant to the termination provisions applicable to the arrangement.

(b) All registered securities in the funds of the system shall be registered in the name "City of Richmond, Richmond Retirement System," or, at the direction of the Board, in the name of the custodian. Every change in registration, by reason of sale or assignment of such securities registered in the name of the "City of Richmond, Richmond Retirement System" shall be authenticated by the signature of the custodian or an authorized representative thereof for a corporate custodian. However, if the Board shall have exercised its power to employ a financial institution as custodian, registered securities in the custody of such custodian may be registered in the name of a nominee of such custodian or a nominee of Depository Trust Company for securities eligible for such registration.

(c) All payments from such funds shall be made by checks issued upon orders signed by such person as is designated for the purpose by the Board. No order shall be signed unless it has previously been authorized by the Board, which authorization shall be recorded in the records of the Board.

(Code 1993, § 23.1-28; Code 2004, § 78-83; Code 2015, § 22-84; Ord. No. 2006-24-50, § 1, 2-27-2006)

Secs. 22-85—22-111. Reserved.

ARTICLE IV. CONTRIBUTIONS

Sec. 22-112. Members' contributions.

(a) In addition to the contributions provided for in Sections 22-177 and 22-317 or as otherwise specifically provided, effective September 1, 2006, each member of the system, including those participating in the enhanced retirement benefit pursuant to Section 22-203, who does not elect to participate in the defined contribution plan established pursuant to Section 22-142 shall contribute one percent of such member's creditable compensation in the case of a general member, and 1 1/2 percent in the case of a public safety member, for each pay period for which the member receives compensation. The participating employer shall deduct from the member's compensation the

required contribution payable by the member. Each eligible employee who does not affirmatively elect to participate in the defined contribution plan established pursuant to Section 22-142 shall be deemed to consent and agree to any deductions from his compensation required by this section.

(b) The participating employer may, by action of City Council, elect to pay an equivalent amount in lieu of member contributions required under this chapter (including, but not limited to, those required under this section and Section 22-203). Any such election by the participating employer shall be in lieu of the member's required contributions and is intended to be a "pick-up" under Section 414(h) of the Internal Revenue Code. Such election shall be effective for contributions to be made after the later of the effective date of the election or the date of the Council action. To the extent contributions are picked-up by the participating employer as a salary reduction, such contributions shall continue to be included in creditable compensation for all purposes under the system and shall be credited to the member contribution account described in Section 22-114. To the extent contributions are picked-up by the participating employer as a payment in lieu of a future salary increase, such contributions shall not be included in creditable compensation for any purpose under the system and shall not be credited to the member contribution account described in Section 22-114.

(Code 2004, § 78-111; Code 2015, § 22-112; Ord. No. 2006-60-128, § 3, 5-30-2006; Ord. No. 2006-185-218, § 1, 7-24-2006; Ord. No. 2007-159-117, § 1, 5-29-2007; Ord. No. 2007-217-188, § 1, 8-6-2007)

Sec. 22-113. Assets and contributions; employer contributions.

(a) The participating employers in the Richmond Retirement System shall contribute annually an amount equal to the sum of the normal contribution and the accrued liability contribution.

(b) The normal contribution for the participating employer for any fiscal year shall be determined as the product of:

(1) The normal contribution rate as determined on July 1 one year prior to the first day of each fiscal year; and

(2) The total creditable compensation of the members for the fiscal year.

(c) The accrued liability contribution for the participating employer for any fiscal year shall be equal to the product of:

(1) The accrued liability contribution rate as determined on July 1 one year prior to the first day of each fiscal year; and

(2) The total creditable compensation of the members for the fiscal year.

(d) The normal contribution rate shall be determined as the ratio of:

(1) The normal cost of all benefits; and

(2) The gross annual payroll of all active members included in the valuation. The normal cost shall be computed in accordance with recognized actuarial principles, on the basis of methods and assumptions approved by the Board. The normal contribution rate shall be determined from the results of each annual valuation and shall continue in force until a new valuation is made.

(e) The accrued liability contribution rate shall be determined as the sum of subsections (e)(1) and (2) of this section divided by subsection (e)(3) of this section, as follows:

(1) The amount necessary to amortize the initial unfunded actuarial accrued liability, as a level percent of pay over a period not to exceed 30 years in accordance with the acceptable Governmental Accounting Standards Board;

(2) The contribution necessary to amortize any increase or decrease in the unfunded actuarial accrued liability in future years due to changes in actuarial assumptions; changes in plan provisions, including the granting of cost-of-living increases; or actuarial gains and losses. Each year's increase or decrease in the unfunded actuarial accrued liability shall similarly be amortized as a level percent of pay over a period not to exceed 30 years in accordance with the acceptable Governmental Accounting Standards Board; and

(3) The gross annual payroll of all active members included in the valuation.

(f) The unfunded actuarial accrued liability as of any valuation date shall be determined by using the same actuarial cost method and assumptions used to determine the normal contribution rate.

(g) The unfunded actuarial accrued liability, as of any valuation date, shall be equal to the excess of:

(1) The actuarial accrued liability; over

(2) The actuarial value of assets then held in the retirement account. The actuarial value of assets shall be determined under a method which reflects the market value of assets and which is approved by the Board.

(h) The accrued liability contribution rate shall be determined from the results of each annual valuation and shall continue in force until a new valuation is made.

(i) The Board shall certify to the Director of Finance the normal contribution rate and the accrued liability contribution rate and every change made, from time to time, in any of such rates. The rates shall be adjusted for interest reflecting the actual timing of the contributions. Such interest shall be calculated at the same rate as used to prepare the valuation on which the initial rates are based.

(Code 1993, § 23.1-30; Code 2015, § 22-113; Code 2004, § 78-112; Ord. No. 2014-137-132, § 1, 7-14-2014)

Sec. 22-114. Member contribution account.

(a) All member contributions and interest allowances shall be credited to the member contribution account. Member contributions required to be returned to the member or required to be paid in the event of the member's death before retirement shall be paid from the member contribution account.

(b) At the end of each payroll period, the participating employer shall transfer to the member contribution account an amount equal to the amount of the employee contribution for such payroll period.

(c) Each individual member contribution account shall be credited with interest at the rate specified by the Board from time to time on the accumulated member contributions beginning at the end of the fiscal year in which the contribution was made. The Board shall have the authority to determine the manner in which the interest is credited to the member contribution account.

(d) Upon the retirement of a member, his member contribution account shall be transferred from the member contribution account to the general assets of the plan.

(Code 2004, § 78-113; Code 2015, § 22-114; Ord. No. 2006-60-128, § 3, 5-30-2006; Ord. No. 2006-185-218, § 1, 7-24-2006)

Secs. 22-115—22-141. Reserved.

ARTICLE V. MEMBERSHIP

Sec. 22-142. Participation in defined contribution plan.

(a) *Generally.* The Board shall maintain a defined contribution plan approved by the Internal Revenue Service as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code of 1986, as amended. The plan document for the defined contribution plan shall govern the operations of the plan. Such plan shall be maintained for the benefit of:

(1) Any eligible employee, as defined in Section 22-2, who had less than 20 years of creditable service in the system as of October 1, 2003, and who made an election effective January 1, 2004, to participate in such defined contribution plan;

(2) Any eligible employee, as defined in Section 22-2, who made an election effective September 1, 2006, to participate in such defined contribution plan;

(3) Any eligible employee hired on or after January 1, 2004 (including a sworn police officer or firefighter or person employed in the senior executive group as identified in Section 22-317(k) hired or rehired on or after July 1, 2006), who made an election effective with his or her date of hire to participate in such defined contribution plan; and

(4) Any employee of a participating employer who is regularly employed on a full-time basis and who is

hired or rehired on or after July 1, 2006, except an elected official (other than a member of the City Council in office on or after July 1, 2018), member of the judicial retirement system, sworn police officer or firefighter (for whom the plan is optional) or person employed in the senior executive group (for whom the plan is optional) as identified in Section 22-317(k).

(b) *Coordination with system.*

(1) Any member who elects to participate in the defined contribution plan or who otherwise becomes a member of such plan will waive any rights to accrue benefits or additional benefits in the system, with the exception of disability benefits.

(2) If a member who is participating in the defined contribution plan should become eligible for disability retirement benefits, the benefits shall be offset by the actuarial equivalent of his account in the defined contribution plan determined as of the date of disability. Such member's years of participation in the defined contribution plan will be added to any of the member's years of service prior to participation in the defined contribution plan for the purpose of calculating the disability retirement allowance in accordance with Section 22-241.

(3) In the case of a member who makes an election to participate in the defined contribution plan effective as of a date other than his or her date of hire, the member will be entitled to a benefit in the system determined as of the effective date of such election to the extent they are vested. Such member's service while a participant in the defined contribution plan shall continue to count toward determining vesting under the system if the member was not vested as of the effective date of the election. If the member is or becomes vested in the benefit under the system, the member will be eligible for deferred retirement upon the later of his termination of employment or reaching retirement eligibility (age 50 for public safety members and age 55 for general members). The amount of the deferred retirement allowance shall be computed in accordance with the provisions of the City Code in effect at the time the member elected to participate in the defined contribution plan and shall be based on creditable service accrued up to the effective date of the election.

(4) In the case of a member who becomes a member of the defined contribution plan effective upon rehire, if the member was not vested in his retirement allowance upon his termination of employment, he shall not accrue additional creditable service toward vesting in the benefit attributable to his prior employment upon his rehire. If vested, the member shall continue to be entitled to any vested retirement allowance computed in accordance with the provisions of this Code in effect at his termination of employment when last treated as an eligible employee under the system and will be eligible for deferred retirement upon the later of his termination of employment or reaching retirement eligibility (age 50 for public safety members and age 55 for general members).

(c) *Provisions of the plan.* The actual provisions of the defined contribution plan shall be contained in the plan document as adopted by the Board. However, the basic provisions of the plan shall be as follows:

(1) *Eligibility.* Each of the following employees shall be eligible for participation in the defined contribution plan:

a. Any eligible employee, as defined in Section 22-2, who had less than 20 years of creditable service in the system as of October 1, 2003, and who made an election within 90 days of the establishment of the plan, effective January 1, 2004, to participate in such defined contribution plan;

b. Any regular full-time employee hired or rehired on or after January 1, 2004, but before July 1, 2006, and any sworn police officer or firefighter or person employed in the senior executive group as identified in Section 22-317(k) hired or rehired on or after July 1, 2006, who makes an election within 90 days of such employee's date of employment to participate in such defined contribution plan;

c. Any employee of a participating employer who is regularly employed on a full-time basis and who is hired or rehired on or after July 1, 2006, except an elected official (other than a member of the City Council in office on or after July 1, 2018), member of the judicial retirement system, sworn police officer or firefighter (for whom the plan is optional) or person employed in the senior

executive group (for whom the plan is optional) as identified in Section 22-317(k); and

d. Any eligible employee, as defined in Section 22-2, who did not previously elect to participate in the defined contribution plan but who subsequently elects to do so effective September 1, 2006, during the period July 1, 2006 through August 31, 2006.

(2) *Vesting.* Any member who elects to participate in the plan must have five or more years of creditable service to obtain vested rights in the plan. Creditable service for this purpose includes all service with the participating employer as more specifically defined in the plan document and shall include service while a member of the system.

(3) *Contributions.* The City shall make contributions to the plan on behalf of the member based on the member's years of creditable service and a percentage of the member's creditable compensation as follows:

a. Less than five years: Five percent;

b. Five through nine years: Six percent;

c. Ten through 14 years: Eight percent; and

d. 15 years or more: Ten percent.

Vested members terminating employment prior to retirement eligibility will be entitled to their account balance. Contributions of nonvested members who terminate employment will be forfeited as described in the plan document. Creditable service for this purpose includes all service with the participating employer as more specifically defined in the plan document and shall include service while a member of the system.

(Code 2004, § 78-140; Code 2015, § 22-142; Ord. No. 2003-170-177, § 1, 5-27-2003; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-59-127, § 2, 5-30-2006; Ord. No. 2006-60-128, § 2, 5-30-2006; Ord. No. 2006-185-218, § 1, 7-24-2006; Ord. No. 2018-141, § 1, 5-14-2018)

Sec. 22-143. Persons comprising.

Membership in the system as of any date shall consist of the following:

(1) All eligible employees at such date, as defined in Section 22-2, inclusive of those on authorized leave from service. Such a member may be referred to as an active member.

(2) All vested former eligible employees who have not retired under the provisions of the system. Such a member may be referred to as a terminated vested member. Members who elect to participate in the defined contribution plan established pursuant to Section 22-142 shall be treated as terminated vested members, except that retirement benefits may not be paid to such member until such member ceases to be an employee of a participating employer.

(3) All retired eligible employees for so long as such former eligible employee is entitled to future benefits under the plan. Such a member may be referred to as a retired member.

(4) All vested former eligible employees who are participating in the deferred retirement option program (DROP) established pursuant to Section 22-204. Such a member may be referred to as a DROP member. Once a DROP member ceases to be employed, such member shall become a retired member.

(Code 1993, § 23.1-31; Code 2004, § 78-141; Code 2015, § 22-143; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-144. Cessation generally.

(a) The membership of any person in the system shall cease upon:

(1) Termination of service as an employee prior to becoming vested and upon the distribution of his or her member contribution account; or

(2) Death.

(b) For the purposes of this section, entering upon authorized leave of absence or into service in the Armed Forces of the United States shall not constitute termination of service as an employee unless the member does not reenter service as an eligible employee at the expiration of the period of authorized leave or within one year after

honorable discharge from the Armed Forces, as the case may be in the case of military service ending before December 13, 1994, or within the time required by the Uniformed Services Employment and Reemployment Act of 1994 in the case of military service ending after December 12, 1994.

(Code 1993, § 23.1-32; Code 2004, § 78-142; Code 2015, § 22-144; Ord. No. 2006-60-128, § 2, 5-30-2006)

Sec. 22-145. Reemployment of retired members.

Should a retired member be again in service at any time subsequent to such person's retirement under Section 22-197, 22-198 or former Section 23-120 (repealed February 26, 1996) and resumes the status as an active member of the system or subsequently becomes a participant in the defined contribution plan established pursuant to Section 22-142, such person's retirement allowance shall thereupon cease. If such person shall resume the status as an active member of the system, such member's previous period of creditable service shall be reestablished. Any benefits which may become payable thereafter under any of the provisions of this article upon the person's subsequent retirement or death shall be computed in accordance with the applicable provisions of this article as if such person's previous retirement had not occurred based on the total of such person's creditable service before and after such person's period of retirement. Creditable service shall not be granted for any periods of employment during which the retired member was in receipt of a retirement allowance. Notwithstanding the foregoing, service while a DROP member or while a participant in the defined contribution plan established pursuant to Section 22-142 shall not be reestablished.

(Code 1993, § 23.1-33; Code 2004, § 78-143; Code 2015, § 22-145; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-185-218, § 1, 7-24-2006)

Secs. 22-146—22-173. Reserved.

ARTICLE VI. CREDITABLE SERVICE

Sec. 22-174. Creditable service defined.

The term "creditable service" shall mean, for any member who is in service at any time after January 1, 1974, the member's total service as an eligible employee, whether or not continuous, exclusive of any separate period of service of less than nine months in duration. Creditable service shall be counted in terms of years, with creditable service in excess of complete years being counted as a fractional part of a year. Creditable service shall not include periods during which the member is on leave without pay and has not made the required member contributions unless otherwise required by law, and creditable service shall not include any service for which a member contribution was required if the member contribution account has been distributed. In addition, creditable service shall include the service described below:

(1) Any person who was a member of the abolished system and in the Armed Forces of the United States on December 22, 1952, or any member of the system subsequently entering the Armed Forces of the United States, being on leave of absence from service, shall be entitled to have included as creditable service the member's period of service in the Armed Forces of the United States as defined in Section 414(u) of the Internal Revenue Code, provided that the member's discharge therefrom was not dishonorable and the member reenters service within one year after discharge, in the case of military service ending prior to December 13, 1994, or within the time required by the Uniformed Services Employment and Reemployment Rights Act of 1994 for military service ending after December 12, 1994. This service shall only be included to the extent that such member makes up for any missed member contributions that would have been required under Section 22-112(a) had the member's employment not been so interrupted.

(2) Creditable service shall also include any service as an employee of the State or an agency thereof which the City Council, by ordinance, has heretofore or shall in the future recognize as creditable service toward participation in retirement benefits of the system.

(3) For vested members (other than those elected to participate in the defined contribution plan established pursuant to Section 22-142), creditable service shall also include 50 percent of a member's unused sick leave earned as an eligible employee of the City, however, creditable service of a DROP member is limited to 50 percent of such member's unused sick leave earned as an eligible employee of the City

which the DROP member does not elect to retain as sick leave under the guidelines established pursuant to Section 22-204.

(4) Creditable service shall also include part-time service in the classified or unclassified service where the member regularly served a minimum of at least 20 hours per week, such part-time service was for a period of at least 18 months, and such part-time service and service as an "eligible employee" has been continuous with no interval between such period of part-time service and service as an eligible employee. Creditable service for such part-time service shall be on the basis of one month for each two months of such service for which contributions are paid.

(5) For members who transferred from City employment to employment with the Richmond Hospital Authority, in conjunction with the creation of the authority effective July 1, 1993, all unused sick leave which the member was not permitted to carry over at the time of transfer of employment shall be recognized and included as creditable service for purposes of participation in retirement benefits of the system, provided that the amount of unused sick leave to be included as creditable service shall be appropriately certified by the Department of Human Resources.

(6) Creditable service shall include any period of severance that is authorized by ordinance.

(7) In addition, any person admitted to membership in the system who was, at the effective date of the transfer and assignment to the Director of Finance of the duties of the Commissioner of Revenue of the City pursuant to Section 8.03.1 of the Charter, an employee of the Commissioner of Revenue of the City and a member of the State Retirement System, shall be entitled to credit toward eligibility for retirement pursuant to Sections 22-197, 22-198, 22-199, 22-238 and 22-240 for the length of such service as an employee of the Commissioner of Revenue of the City. Such service, however, shall not be counted in determining the allowances or benefits that may be awarded pursuant to Sections 22-202, 22-239, 22-241, 22-296, 22-297, 22-299 and 22-317.

(8) For a member whose employment is interrupted, creditable service shall be included only to the extent that such member makes up for any missed member contributions that would have been required under Section 22-112(a) had the member's employment not been so interrupted. Make up contributions shall be made starting with the date of reemployment and continuing for up to three times the length of the member's break in service; provided, however, that the repayment period shall not exceed five years. If the member does not make up all of the missed contributions, such member's creditable service under this section shall be prorated for the amount actually repaid. Makeup contributions shall not be subject to any otherwise applicable contribution limits under Section 402(g), 402(h), 403(b), 408, 415 or 457 of the Internal Revenue Code as applied with respect to the plan year or taxable year in which the contribution is made.

(9) Any person with less than 35 years of creditable service who was a member of the system while employed by Richmond Public Schools and who subsequently is hired by the City as a result of a merger or consolidation of Richmond Public Schools and City job functions, shall:

a. Remain in the system;

b. Continue to accrue creditable service; and

c. Not be deemed a member of the defined contribution plan under Section 22-142.

(Code 1993, § 23.1-34; Code 2004, § 78-171; Code 2015, § 22-174; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-60-128, § 2, 5-30-2006; Ord. No. 2007-298-279, § 1, 12-10-2007; Ord. No. 2011-88-76, § 1, 5-23-2011)

Sec. 22-175. Filing of statement of service.

If the Board shall deem it necessary in order to determine the status of a member or an eligible employee or a person claiming entitlement to benefits under the Richmond Retirement System, the Board may, under such rules and regulations as it may adopt, require such person to file a statement of creditable service, such statement to include a detailed description of all services rendered as an eligible employee and other information as the Board may require. Until any required statement is filed, no benefits shall be payable under this article.

(Code 1993, § 23.1-35; Code 2004, § 78-172; Code 2015, § 22-175)

Sec. 22-176. Determination of years of creditable service.

The Board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of creditable service in the Richmond Retirement System, but in no case shall it allow credit for more than one year of creditable service for all service rendered in any period of 12 consecutive months.

(Code 1993, § 23.1-36; Code 2004, § 78-173; Code 2015, § 22-176)

Sec. 22-177. Purchase of prior service.

(a) Any vested member who is an eligible employee may purchase creditable service for service for all or part of the following:

(1) Certified creditable service in the retirement system of the Commonwealth or another state or of a political subdivision.

(2) Any period of full-time service rendered to a participating employer on a temporary, seasonal, provisional, Comprehensive Employment Training Act (CETA) or contractual basis, provided that such period has not been previously included in the creditable service.

(b) The service credits should not be considered in the calculation of any retirement benefit by another retirement system.

(c) The member must pay an amount of the following percentages, for each year of creditable service to be credited, of the member's present annual creditable compensation or of the member's average final compensation during the member's 36 highest consecutive months of creditable service with the City, whichever is greater:

(1) For a general member, an amount equal to ten percent; and

(2) For a public safety member, an amount equal to 15 percent.

(d) Creditable service purchased under this section shall not be considered in determining eligibility for unreduced early retirement, if the member's retirement is within five years of the date of purchase of service credit; provided, however, creditable service purchased in connection with a portability agreement shall be considered in determining eligibility for unreduced early retirement, provided such purchase is made at least 90 days prior to such retirement.

(e) Payment may be made in a lump sum or by payroll deduction in equal installments over a period not to exceed the service credit being purchased. Should the deduction be terminated prior to purchasing the entire period, which might otherwise be credited, the member shall be credited with the number of additional months of service for which payments are made. If the deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period, which might otherwise have been credited, and the excess amount deducted shall be refunded to the member. Any purchase of prior service made within 90 days of the member's effective date of retirement shall be made by a lump sum payment.

(f) The system shall accept a direct trustee-to-trustee transfer of a lump sum in cash from a plan established pursuant to Section 457(b) of the Internal Revenue Code by a governmental employer or a plan or program established pursuant to Section 403(b) of the Internal Revenue Code as payment by a member for the purchase of creditable service. The cost will be determined as described in subsection (c) of this section.

(Code 1993, § 23.1-37; Code 2004, § 78-174; Code 2015, § 22-177; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-178. Portability of service credit.

(a) The Executive Director and the Board of Trustees of the system are hereby authorized to enter into reciprocal agreements with the Virginia Retirement System (VRS) and any political subdivision of the Commonwealth that sponsors a defined benefit retirement system which is not supplemental to VRS.

(b) The reciprocal agreements shall be in accordance with Code of Virginia, §§ 51.1-801.1 and 51.1-143.1 and shall permit members of the Defined Benefit Plan to transfer their vested service credit between the system and VRS or any political subdivision for the purpose of determining retirement benefits. Such agreements shall also provide for the direct transfer, between the system and VRS or the political subdivision, of assets associated with such transferred service credit. All reciprocal agreements shall be designed to be cost neutral to the system, thereby

creating no additional unfunded liabilities. Any election by a member to transfer service credit pursuant to such a reciprocal agreement must be submitted in writing no later than 18 months after first becoming an eligible employee.

(c) Before entering into any such agreement, the agreement shall be approved as to form and legality by the City Attorney.

(Code 1993, § 23.1-38; Code 2004, § 78-175; Code 2015, § 22-178; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2007-323-2008-1, § 1, 1-14-2008; Ord. No. 2009-207-214, § 1, 11-23-2009)

Sec. 22-179. Purchase of additional service.

At the date of separation from City employment, any vested member in a position eligible to participate in the provisions of Section 22-317(a) may purchase up to a maximum of five years of unqualified, additional service to be counted as creditable service in order to meet that member's retirement eligibility. Such member shall pay an amount equal to the actuarial equivalent as determined by the system's actuary for each year of creditable service to be purchased.

(Code 2004, § 78-176; Code 2015, § 22-179; Ord. No. 2003-171-178, § 1(23.1-37.1), 5-27-2003)

Secs. 22-180—22-196. Reserved.

ARTICLE VII. RETIREMENT ELIGIBILITY AND ALLOWANCE—SERVICE, EARLY SERVICE AND DEFERRED

Sec. 22-197. Normal service retirement.

(a) *General member eligibility.* Any member who is in service as an eligible employee at or after such member's normal retirement date shall be eligible after completion of the retirement application described in Section 22-50 to receive an unreduced normal service retirement allowance beginning on the first day of the month following the member's ceasing to be an employee on or after his normal retirement date.

(b) *Public safety member eligibility.* Any member who is in service as an eligible employee at or after such member's normal retirement date shall be eligible after completion of the retirement application described in Section 22-50 either to receive an unreduced normal service retirement allowance beginning on the first day of the month following the member's ceasing to be an employee on or after his normal retirement date or to continue in service but have his retirement allowance credited to an account under the deferred retirement option program (DROP) established pursuant to Section 22-204.

(Code 1993, § 23.1-39; Code 2004, § 78-201; Code 2015, § 22-197; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-198. Early service retirement.

Any member who is in service as an eligible employee shall be eligible to retire after completion of the retirement application as described in Section 22-50 and receive an early service retirement allowance beginning on the first day of the month following the later of his ceasing to be an employee or:

(1) For a general member:

a. The earlier of the 55th birthday of a vested general member; provided, however, if such member is at least age 55 years but has not become vested, upon the completion of five years of creditable service, and any time thereafter prior to attaining age 65 years; or

b. Upon completion of 30 years of creditable service, regardless of age.

(2) For a public safety member:

a. The earlier of the 50th birthday of the vested public safety member; provided, however, if such member is at least age 50 years but has not become vested, upon the completion of five years of creditable service, and any time thereafter prior to attaining age 60 years; or

b. Upon completion of 25 years of creditable service as a public safety member, regardless of age.

Notwithstanding the foregoing, a public safety member with at least 25 years of creditable service or a public safety member who elected to participate in the enhanced benefit retirement program established pursuant to Section 22-203 with at least 20 years of creditable service shall be eligible after completion of the retirement application

described in Section 22-50 either to receive an unreduced service retirement allowance beginning on the first day of the month following the member's ceasing to be an employee on or after his early retirement date or to continue in service but have his retirement allowance credited to an account under the deferred retirement option program (DROP) established pursuant to Section 22-204.

(Code 1993, § 23.1-40; Code 2004, § 78-202; Code 2015, § 22-198; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-199. Deferred service retirement.

Any terminated vested member may retire under the provisions of either Section 22-197 or 22-198 after completion of the retirement application as described in Section 22-50, provided that the requirement as to such member being in service shall not apply. The amount of the retirement allowance shall be computed in accordance with the provisions of the Code in effect at the time of termination of service as an eligible employee. Notwithstanding, a terminated vested member who elected to participate in the defined contribution plan established pursuant to Section 22-142 may elect deferred retirement with respect to benefits earned prior to his participation in such defined contribution plan only after ceasing to be an employee. Service while a participant in the defined contribution plan shall not count as creditable service for the purpose of determining eligibility to commence payment under Section 22-198 or toward the elimination of the early payment reduction factors described in Section 22-202(4).

(Code 1993, § 23.1-41; Code 2004, § 78-203; Code 2015, § 22-199; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-200. Determination of service retirement allowance.

(a) For the purposes of any section of this chapter, the service retirement allowance of any member shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

(b) After a member has retired and the amount of the member's retirement allowance has been determined under this chapter, the amount of the member's retirement allowance shall be unaffected by any changes in the actual amount of the primary Social Security benefits to which the member is or becomes entitled under the Federal Social Security Act.

(Code 1993, § 23.1-42; Code 2004, § 78-204; Code 2015, § 22-200)

Sec. 22-201. Effect of transfers of employment.

(a) *Reclassification.* If any public safety member, with five or more consecutive years of creditable service as such, is transferred to a position as a general employee of the City, based upon a determination by the medical examiner or such other physician employed by the City that such member is permanently and completely incapacitated from performing the duties required of a sworn police officer or a firefighter as a result of an injury sustained in the line of duty, the member shall thereafter continue to be classified as a public safety member for all purposes related to determining eligibility for retirement and calculating the retirement allowance payable to the member upon retirement.

(b) *Combined services.* Except as otherwise provided in subsection (a) of this section, if the creditable service of a member at retirement includes service both as a public safety member and as a general member, the amount of any service retirement allowance provided under Section 22-202 shall be determined as the sum of subsection (b)(1) plus subsection (b)(2) of this section as follows:

(1) The retirement allowance that would be payable based on the member's creditable service as a public safety member.

(2) The retirement allowance that would be payable based on the member's creditable service as a general member.

(Code 1993, § 23.1-43; Code 2004, § 78-205; Code 2015, § 22-201)

Sec. 22-202. Service retirement allowance formula; service; early service and deferred.

As used in this article, and in the case of a public safety member on or after September 1, 1997, and a general member on or after March 1, 1997, the term "service retirement allowance" shall mean:

(1) *General member.* In the case of a general member, the annual amount of any monthly retirement allowance payments to a retired general member shall be 1.75 percent of the member's average final compensation, multiplied by the number of years of such member's creditable service up to a maximum of 35 years.

(2) *Public safety member.* In the case of a public safety member, the annual amount of any monthly retirement allowance payments to a retired public safety member shall be the sum of:

a. 1.65 percent of the member's average final compensation, multiplied by the number of years of such member's creditable service up to a maximum of 35 years; plus

b. A supplement payable until attainment of the age of 65, which is equal to 0.75 percent of the member's average final compensation, multiplied by the number of years of such member's creditable service as a public safety member up to a maximum of 25 years (referred to as the "public safety supplement").

(3) *Early service reduction factors.* In the case of a general member with less than 30 years of creditable service or a public safety member with less than 25 years of creditable service as a public safety member, the member's retirement allowance shall be reduced by 5/12 of one percent for each complete month in the period between the member's retirement date and the earlier of:

a. The member's normal retirement date; and

b. For a general member, the date on which the member would have completed 30 years of creditable service had such member remained in service; or

c. For a public safety member, the date the member would have completed 25 years of creditable service as a public safety member, had such member remained in service.

(4) *Deferred reduction factors.* Any other provision of this section to the contrary notwithstanding, if a vested member terminates service under Section 22-199 and has not completed 25 years of creditable service as a public safety member at the date of termination, or (effective January 1, 1990) 30 years of creditable service as other than a public safety member at the date of termination, the member's service allowance shall be reduced in each case by 5/12 of one percent thereof for each complete month by which the member's retirement date precedes the member's normal retirement date.

(5) *Workers' compensation limitation.* No member who receives compensation awarded pursuant to the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.) and who also receives a retirement allowance from the system shall receive before the attainment of age 65 a sum of workers' compensation and retirement allowance which exceeds the average final compensation received by such person at the time such member separated from active service as an employee of a participating employer. After attainment of age 65, the member shall be entitled to the full retirement allowance.

(6) *Workers' compensation limitation (lump sum award).* If any member in receipt of a retirement allowance pursuant to this section elects to receive a lump-sum settlement in lieu of periodic payments for disability under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.), the member's service retirement allowance shall continue to be reduced in the same amount required by subsection (5) of this section and for the number of months equivalent to the lump sum award amount divided by the amount of the original workers' compensation award amount (i.e., the lump sum award amount divided by the original workers' compensation award amount equals the number of months of continued reduction).

(7) *Exception.* Notwithstanding the foregoing, the service retirement allowance formula applicable to a general member who elects to participate in the enhanced benefit retirement program established pursuant to Section 22-203 shall be determined in accordance with that section, in lieu of subsection (1) of this section.

(Code 1993, § 23.1-44; Code 2004, § 78-206; Code 2015, § 22-202; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-203. Enhanced defined benefit retirement.

(a) *Eligibility.*

(1) Upon the establishment of an enhanced defined benefit retirement plan, any member may make a one-time election to participate in such plan; provided, however, that no public safety member age 40 or above may first make such an election. The member must make the election to participate in the plan within 90 days of the member's date of employment or within 90 days of the establishment of the enhanced defined benefit retirement plan, whichever should occur later.

(2) During the period from July 1, 2006 through August 31, 2006, any member who previously elected to participate in the enhanced defined benefit plan may revoke such election. Such revocation shall be effective September 1, 2006.

(b) *Enhanced benefits.*

(1) For participating general members, the annual retirement allowance shall be two percent of the member's average final compensation, multiplied by the number of years of such member's creditable service up to a maximum of 35 years.

(2) Any participating public safety member shall be eligible to retire after completion of the retirement application as described in Section 22-50 and receive an unreduced early service retirement allowance beginning on the first day of the month following the completion of 20 years of creditable service as a public safety member, regardless of age. The formula for calculating such member's allowance will be as described in Section 22-202.

(c) *Member contribution.* Any member who elects to participate in the enhanced benefit retirement program must contribute three percent of the member's creditable compensation from the date of election to the date of termination of service, in addition to any contribution that might be required to participate in the current system. Contributions must be made for a minimum of three years prior to retirement. General members may pay the balance of the required three years' contributions in a lump sum at retirement. Effective September 1, 2006, the contribution requirement shall be three and fifty-seven one-hundredths percent of the member's creditable compensation for general members and three and ninety-five one-hundredths of the member's creditable compensation for public safety members.

(d) *Return of member contributions made prior to September 1, 2006.* In the event that a member participating in the enhanced defined benefit retirement plan revokes his or her election during the period described in subsection (a)(2) of this section, the member's contributions made to the plan prior to the effective date of the revocation shall be refunded to the member in accordance with established practices and procedures with interest as determined by the Board. These contributions are in addition to contributions required in Section 22-112(a). Upon the refund of the member's contributions made under this section, the member shall have no rights or benefits payable under the enhanced defined benefit retirement plan.

(Code 2004, § 78-207; Code 2015, § 22-203; Ord. No. 2003-172-179, § 1(23.1-44.1), 5-27-2003; Ord. No. 2006-58-126, § 1, 5-30-2006; Ord. No. 2006-185-218, § 1, 7-24-2006; Ord. No. 2009-207-214, § 1, 11-23-2009)

Sec. 22-204. Deferred retirement option program.

(a) *Eligibility.* Any public safety member, upon reaching unreduced retirement eligibility or anytime thereafter, may elect to participate in the deferred retirement option program ("DROP"). An eligible public safety member may participate in the DROP only once. Such eligible public safety members must submit a complete retirement application to the Board of their election to participate in the DROP not less than 60 days prior to participation in the program. The implementation date for the DROP will commence as of January 1, 2004.

(b) *Effects of participation.*

(1) Upon the election to participate in the DROP, the participating member will be considered a retired member for all purposes related to the system. However, while participating in the DROP, the member's unreduced monthly retirement allowance shall be paid to a DROP account in lieu of being paid to the member.

(2) The duration of participation in the DROP shall be elected by the member, but shall not exceed six years. During the member's participation in the DROP, a fee up to three percent of that member's creditable compensation may be charged annually to the individual DROP account to cover the cost of the program.

The actual amount of the annual fee will be set by the Board, to be effective July 1 of each fiscal year.

(3) At the end of the DROP period, the member shall terminate employment with the City, the account balance shall be paid to the member and the member shall be classified as a retiree. In the event the member terminates employment prior to the end of the DROP period, the account balance shall be paid to the member and the member shall be classified as a retiree.

(4) Any current participant in the deferred retirement option program whose exit date is on or after July 1, 2015, shall be eligible to elect to extend such participant's participation period for the DROP to a maximum of six years, provided that such participant makes the election to extend the participation period to a maximum of six years by completing and submitting to the Richmond Retirement System a form prescribed by the Richmond Retirement System either prior to the exit date set forth on such participant's deferred retirement option program retirement application or within 60 days after the effective date of the ordinance from which this section is derived, whichever occurs first, after which date such participant shall no longer be eligible for the extended participation period for which Ordinance No. 2015-127-136 (see subsection (b) of this section) provides.

(c) *Unused sick leave credit.* At the time of the election to participate in the DROP, the participating member may elect to retain any or all of his unused sick leave. Fifty percent of unused sick leave not retained shall be converted to creditable service at the beginning of the DROP period in accordance with Section 22-174. Unused sick leave remaining at the end of the DROP period will not be eligible for conversion.

(d) *Rules and regulations.* The Board of Trustees, on behalf of the City Council, is authorized to adopt rules and regulations governing the DROP plan. Any documents executed by the Board of Trustees shall be approved, in form, by the City Attorney prior to execution. Other provisions and administrative guidelines for the DROP shall be contained in the DROP document as adopted by the Board.

(Code 2004, § 78-208; Code 2015, § 22-204; Ord. No. 2003-173-180, § 1(23.1-44.2), 5-27-2003; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2005-90-98, § 1, 5-31-2005; Ord. No. 2015-127-136, § 1, 6-8-2015; Ord. No. 2015-139-145, § 1, 6-22-2015)

Sec. 22-205. Distribution of a non-vested member's contribution account upon termination of employment.

If a member terminates his or her service as an employee prior to becoming vested, he or she shall receive a distribution of his or her member contribution account no later than 90 days following such termination.

(Code 2004, § 78-209; Code 2015, § 22-205; Ord. No. 2006-60-128, § 4, 5-30-2006; Ord. No. 2009-207-214, § 1, 11-23-2009)

Sec. 22-206. Voluntary retirement incentive program.

(a) *Definitions.* For purposes of this section, the words and phrases set forth in this subsection shall have the meanings ascribed to them by this subsection unless the context clearly indicates that another meaning is intended:

Day means a calendar day.

Deferment period means a period of time not exceeding 334 days determined in writing by the Chief Administrative Officer for each member whose services the Chief Administrative Officer determines to be essential pursuant to subsection (e) of this section.

All other words and phrases used in this section have the meanings ascribed to them by Section 22-2.

(b) *Eligibility.* Notwithstanding any provision of this chapter to the contrary, and subject to subsection (e) of this section, any general employee of the City, with the exception of any defined benefit or enhanced benefit plan member who is a sworn employee of the Department of Fire and Emergency Services or the Department of Police shall be entitled to voluntarily cease such employee's employment with the City in accordance with the voluntary retirement incentive program established by this section provided that, as of July 1, 2019, such member:

(1) Is an active general employee of the City, which shall include any person on authorized vacation leave, sick leave, or other leave that has a Family and Medical Leave Act purpose;

(2) Has attained the age of 55 and has completed at least 25 years of creditable service, or has attained the age of 65 and has completed at least five years of creditable service; and

(3) Executes a general release (including, but not limited to, an anti-discrimination release) at such time and

in such form as required by the City and prescribed or approved by the City Attorney or the designee thereof, on a uniform and non-discriminatory basis, and does not revoke such release.

(c) *Election.* Any eligible member who desires to retire pursuant to this section shall provide timely written notification to the Board, between July 15, 2019, and September 3, 2019, setting forth such member's election to retire effective November 1, 2019. Such written notification shall include submission of a voluntary retirement incentive program election form, a general release as specified in subdivision (3) of subsection (b) of this section, and a completed system retirement application. Any voluntary retirement incentive program election by an eligible member shall become irrevocable after the seventh day following the member's execution and submission to the Board of all documents referred to in this section and any other documents required by either the City or the Board or both.

(d) *Computation of retirement allowance.* The computation of the retirement allowance to which a member retiring under the voluntary retirement incentive program is entitled shall in all respects conform to the provisions of this article, except to the extent such provisions may conflict with the following special provisions applicable to the voluntary retirement incentive program established by this section:

(1) The retirement allowance to be received by an eligible member shall be based upon the amount of such member's salary as of July 6, 2019, rather than the member's average final compensation.

(2) On September 1, 2019, eligible members who elect to participate in the voluntary retirement incentive program and have at least 25 years of creditable service, but less than 35 years of creditable service, shall be granted up to three additional years of creditable service. The highest number of service years that can be used in the voluntary retirement incentive program retirement benefit calculation is 35.

(3) Eligible members who elect to participate in the voluntary retirement incentive program and, as of July 1, 2019, are 65 years of age or older and have at least five years of creditable service shall be granted up to three additional years of creditable service hereunder. The highest number of service years that can be used in the voluntary retirement incentive program benefit calculation is 35.

(4) Additional creditable service for unused sick leave may not be used for purposes of determining eligibility or for qualifying for or participating in the incentive payments provided in this section.

(5) The one-time incentive payments provided under subsections (e) through (g) of this section shall not be included in creditable compensation for purposes of calculating an eligible member's pension payment.

(6) The early service reduction factor set forth in Section 22-202(3) shall not be applicable to any eligible member who retires pursuant to the voluntary retirement incentive program, and such member shall receive an unreduced benefit regardless of such member's years of creditable service.

(e) *Essential personnel.* The Chief Administrative Officer may delay the retirement of any eligible member who has elected to retire in accordance with subsection (c) of this section whose services the Chief Administrative Officer determines to be essential for the proper operation of the City. In the event of such a determination, the Chief Administrative Officer shall notify in writing the member, the President of the Council and the Board that the member's retirement will be deferred for a deferment period. The member deemed essential shall be entitled to an additional special incentive payment of up to $5,500.00, payable in equal installments over no more than 90 days, and in accordance with the City's pay schedule, commencing in the first pay period beginning at least 90 days after the date on which the Chief Administrative Officer issues written notification thereof to the member. If the member remains in service until the end of the deferment period, the member shall be eligible to retire in accordance with the voluntary retirement incentive program within 30 days following the end of the deferment period. If, at any time prior to the end of the deferment period, the Chief Administrative Officer determines that the member's assignment has been completed, the member shall be eligible to retire in accordance with the voluntary retirement incentive program within 30 days following the date on which the Chief Administrative Officer issues written notification thereof to the member. The member deemed essential shall continue to earn creditable service time during the delayed retirement period and shall be entitled to retire under the provisions of the voluntary retirement incentive program based on the member's age and years of service at the time of the member's delayed separation.

(f) *Fully vested incentive payment.* Any eligible member who has at least 33 years of creditable service on July 1, 2019, meets the requirements under the provisions of the voluntary retirement incentive program and elects

to retire shall be paid an additional incentive payment as follows:

(1) A member with 35 years and higher of creditable service shall receive a one-time lump sum incentive payment from the City of $22,000.00, less applicable taxes;

(2) A member with 34 years up to the day prior to 35 years of creditable service shall receive a one-time lump sum incentive payment from the City of $10,000.00, less applicable taxes; or

(3) A member with 33 years up to the day prior to 34 years of creditable service shall receive a one-time lump sum incentive payment from the City of $7,500.00, less applicable taxes.

Each such incentive payment shall be paid from the City's treasury and not from the funds of the system.

(g) *Distribution of incentive payments.* Any eligible member who is entitled to receive an incentive payment under subsection (e) or (f) of this section shall be paid a one-time monetary incentive during the first regularly-scheduled pay period in January, 2020. Any one-time lump sum payment that is payable after separation from the City shall constitute a post separation payment, shall not be eligible to be deferred under the City's 457 retirement plan and shall not be included in creditable compensation for purposes of calculating any such eligible member's pension payment.

(h) *Post-retirement rehire.* Any eligible member who elects to retire under the voluntary retirement incentive program shall be ineligible for rehire by the City in a part-time or seasonal position for a period of six months and shall not be eligible to be rehired as a full-time, permanent employee for one year after separation from the City.

(i) *Rules and regulations.* The Board may, from time to time, issue, modify and enforce any rules, regulations or guidelines, consistent with this section and other applicable laws as may be necessary to carry out the requirements and purposes of this section.

(j) *Expiration.* The provisions of this section shall expire on December 31, 2020.

(Code 2015, § 22-206; Ord. No. 2019-138, § 1, 6-10-2019)

Secs. 22-207—22-233. Reserved.

ARTICLE VIII. DISABILITY RETIREMENT

Sec. 22-234. Medical examiner's procedure.

(a) The Board of Trustees of the Richmond Retirement System shall, from time to time, commencing as soon as practicable but in any event no later than July 1, 1975, employ a minimum of three physicians, practicing in the City, upon such terms and conditions as the Board may prescribe, each of whom shall be known as a medical examiner. It shall be the duty of a medical examiner, at the request of the Board, to conduct or approve all medical examinations required under this article or by the Board. If such a request is made, a medical examiner shall investigate all health or medical statements and certificates made by or on behalf of any person in connection with the payment of money to such person under this article and shall report in writing to the Board pertinent conclusions and recommendations.

(b) Except as otherwise provided, a medical examiner whose specialty is most closely related to the cause of the alleged disability shall conduct an examination of a member requesting retirement under Section 22-238 or 22-240. If, for any reason, such an examination is not possible, the Board may rely upon the medical examiner's review and approval of the health or medical statements and certificates made by or in behalf of the member. If the member's alleged disability is the result of multiple causes, the Board may utilize a medical examiner of general practice.

(c) Upon completion of the examination described in subsections (a) and (b) of this section, a second medical examiner shall review the conclusions and recommendations which result therefrom as well as health or medical statements made by or in behalf of the member. The second medical examiner shall then, based upon this review, agree or disagree with the first set of conclusions and recommendations. This medical examiner may conduct an examination of the member.

(d) If the second medical examiner disagrees with the first set of conclusions or recommendations, the Board shall seek the opinion of a third medical examiner. The third medical examiner shall conduct an examination of the

member in the manner prescribed for the examination by the first medical examiner.

(e) The Board shall, in all cases, determine eligibility for retirement pursuant to Section 22-238 or 22-240 in a manner which is consistent with the conclusions and recommendations of the majority of the medical examiners from whom opinions are requested under this section.

(f) Determinations for certification as required in Section 22-236 shall be made utilizing the procedure described in this section.

(Code 1993, § 23.1-45; Code 2004, § 78-241; Code 2015, § 22-234)

Sec. 22-235. Postretirement examination.

(a) The Board may require any member in receipt of a disability retirement allowance under the Richmond Retirement System or under the abolished system to undergo a medical examination by the medical examiner once each year prior to the date on which the member would have attained the member's normal retirement date had the member remained in service. Should a member refuse to submit to any required medical examination, the member's disability retirement allowance shall be discontinued until the member's withdrawal of such refusal, and should such refusal continue for one year all the member's rights to any further disability allowance shall cease.

(b) If, on or after the first anniversary of the member's disability retirement, the medical examiners determine that such member is capable of performing the duties of positions, other than those of the member's last position with the City, for which the member may reasonably be qualified by education, training, or experience, the Board shall refer such member to the Director of the Department of Human Resources for the purpose of seeking an appointment to such a position. The failure or refusal of the member within one month to accept any such position offered for which the wages are at least 100 percent of the member's last salary including any cost-of-living adjustments and equity increases through a combination of salary and system benefits for a disability which entitles the member to workers' compensation and 80 percent for a disability which does not entitle the member to workers' compensation shall result in the member being deemed ineligible for any benefits under this section. Any benefits awarded pursuant to this section shall cease upon the member's appointment to the position offered. If a retired member is reassigned to another position with the City as a result of such medical evaluation, all the member's retirement benefits other than salary shall be calculated as if the person were still in the position from which the person initially became disabled; provided, however, if the member is in receipt of a Social Security disability retirement award, the member shall be under no duty either to submit to a medical examination or to accept any position which may be offered as a result of the examination. Should any such Social Security disability retirement award be terminated, these duties shall again be imposed on the member.

(c) Any retired member entitled to total and permanent disability benefits under the Federal Social Security Act shall be exempt from the requirements of this section.

(Code 1993, § 23.1-46; Code 2004, § 78-242; Code 2015, § 22-235)

Sec. 22-236. Cessation of disability retirement allowance.

Whenever, as a result of an examination of a member in receipt of a disability retirement allowance, as provided for in Section 22-235, the medical examiners certify to the Board that such member is no longer completely incapacitated and is capable of performing the usual and customary duties required of the member's former position with the City or if any such member should be again in service at any time prior to the member's normal retirement date, the disability retirement allowance of such member shall cease, and the individual shall again become an active member of the Richmond Retirement System. Any creditable service rendered by the member prior to the member's date of disability shall thereafter be counted as creditable service, and, in addition, the period of disability retirement shall be counted as creditable service.

(Code 1993, § 23.1-47; Code 2004, § 78-243; Code 2015, § 22-236)

Sec. 22-237. Filing requirements.

(a) *Application for Social Security disability benefits required.* Any member in receipt of a disability retirement allowance must apply for Social Security disability benefits within six months of retirement and submit a copy of the letter of award or denial to the Richmond Retirement System upon its receipt.

(b) *Request for tax and income information.* The Board may require a member receiving a disability retirement allowance to provide a signed copy of the member's Federal and State tax returns and all statements and schedules required to be attached thereto. Any retired member entitled to total and permanent disability benefits under the Federal Social Security Act shall be exempt from the requirements of this section.

(c) *Noncompliance.* Should any member refuse to provide requested documents or information as provided in this section, the member's disability retirement allowance shall be discontinued until such requested documents or information are produced. If the refusal to provide the requested documents or information continues for a period of one year, any right to further disability retirement allowance shall terminate. Should the Board determine that an overpayment of disability retirement allowance has been made, such overpayment shall be corrected by suspension of all or part of the disability allowance for such period of time as necessary to complete such repayment.

(Code 1993, § 23.1-48; Code 2004, § 78-244; Code 2015, § 22-237)

Sec. 22-238. Eligibility for ordinary, non-job-related disability retirement.

(a) *Non-job-related disability.* Any vested member in service may retire or may be retired by the member's appointing authority at any time prior to the member's normal retirement date, on account of permanent disability, upon submission of a completed retirement application to the Board, made by the member or by the appointing authority setting forth at what time the retirement is to become effective. Such effective date shall be after the termination of pay status but shall not be more than 90 days prior to the filing of such application. The medical examiners, after a medical examination of such member, shall have certified that such member has been completely incapacitated by reason of sickness or injury contracted after the member's most recent date of employment and that at such effective date the member, as a result of the same sickness or injury, is completely incapacitated from performing the duties required of the member's position or another position with the City and that such incapacity is likely to be permanent and that such member should be retired.

(b) *Preexisting condition.* If a member's sickness or injury which, though existing at the time of the member's most recent employment, did not prevent such member from performing all the usual and customary duties required in the position such member filled such member is entitled to disability retirement, provided that:

(1) The member's most recent period of employment has been not less than five years; and

(2) Medical evidence, convincing to the Board, supports a finding that such preexisting condition has worsened substantially, so as to render such member completely incapacitated and that at such effective date the member, as a result of the same sickness or injury, is completely incapacitated from performing the duties required of the member's position or another position with the City and that such incapacity is likely to be permanent and that such member should be retired.

(c) *Successive disabilities.* In the administration of this section, successive disabilities separated by less than six months of active employment shall be considered to be the same disability unless due to entirely unrelated causes.

(d) *Determination of retirement date.* Notwithstanding the requirement of subsection (a) of this section that the effective date of a member's disability retirement shall be after the termination of pay status but shall not be more than 90 days prior to the member's or the member's appointing authority's filing a completed retirement application with the Board, the Board may, in its discretion, upon written application by the member or appointing authority, as the case may be, and upon medical examination and certification by the medical examiner to the Board that the same incapacity continues, extend the effective date for retirement beyond the 90 days, provided that each such extension shall be for 90 days, and not more than three consecutive extensions shall be granted or allowed by the Board to the member. Should the medical examiner after further examination of the member during the period of extension certify that the members' incapacity has been cured or removed, the member shall not be eligible for disability retirement.

(e) *Termination of pay status.* Retirement under this section shall occur upon the termination of pay status. As used in this section, the term "termination of pay status" means complete and final payment of all compensation, salary or wages owed by the City to the member, including vacation, sick leave or other leave of absence during which the member is paid compensation, salary or wages.

(Code 1993, § 23.1-49; Code 2004, § 78-245; Code 2015, § 22-238)

Sec. 22-239. Ordinary (non-job-related) disability; benefit formula.

(a) *Generally.* Upon retirement under Section 22-238 (non-job-related), a member shall receive an annual disability retirement allowance payable monthly for life during such members' continued disability commencing one month after the member's date of retirement, in an amount computed in accordance with the following subsections of this section.

(b) *Disability service and compensation.*

(1) With respect to a member who retires for disability prior to the attainment of the age of 60, the term "disability-average compensation," as used in this section, means the average final compensation that would have been applicable to the member at the age of 60 had the member remained in service until such age, at the same annual rate of creditable compensation as in effect at the date of the member's disability retirement, and the term "disability-credited service," as used in this section, means the smaller of:

a. The creditable service the member would have completed at age 60 had the member remained in service until such age; or

b. The larger of 20 years or twice the member's actual period of creditable service.

(2) With respect to a member who retires for disability after the attainment of the age of 60, the term "disability average compensation" means the member's average final compensation, and the term "disability-credited service" means the member's creditable service.

(c) *Benefit formula.* For member who retires under Section 22-238 (non-job-related), the annual amount of any monthly disability retirement allowance payments to the member that fall due hereunder on or after attainment of the age of 65, or prior to the member's attainment of the age of 65 and in a month for which the retired member is entitled to total and permanent disability benefits under the Federal Social Security Act shall be computed as the sum of:

(1) 1.25 percent of the member's disability-average compensation, multiplied by the number of years of the member's disability-credited service, as herein defined; plus

(2) 0.15 percent of the member's disability-average compensation in excess of the greater of $13,200.00 or one-half of the covered compensation for the member attaining Social Security retirement age during the year of retirement times the member's disability-credited service up to a maximum of 35 years. A member who does not attain Social Security retirement age during the year of retirement shall have covered compensation calculated as if the member had.

(d) *Supplement if not entitled to Social Security disability.* The annual amount of any monthly retirement allowance payments to a retired member that fall due hereunder prior to the member's attainment of the age of 65 and in a month for which the retired member is not entitled to total and permanent disability benefits under the Federal Social Security Act shall be computed as the sum of the amount computed as provided in subsection (c) of this section, plus 0.65 percent of the member's disability-average compensation times the member's disability-credited service up to a maximum of 20 years.

(e) *Worker's compensation limitation prior to age 65 years.* No member who receives compensation awarded pursuant to the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.) and who also receives a disability retirement allowance from the system shall receive before the attainment of age 65 a sum of workers' compensation and retirement allowance which exceeds the average final compensation received by such member at the time such disability caused separation from active service as an eligible employee of the City.

(f) *Worker's compensation limitation after age 65 years.* No such member after attainment of age 65 shall receive a sum of workers' compensation and disability retirement allowance which exceeds the average final compensation received by such member at the time such disability caused separation from active service as an eligible employee of the City less 0.65 percent of such member's average final compensation or disability-average compensation times such member's creditable service or disability credited service to a maximum of 20 years. A member receiving a disability retirement allowance shall be entitled to receive all cost-of-living adjustments authorized by City Council although such cost-of-living adjustments may result in such member receiving an overall

allowance in excess of the member's average final compensation computed at the time of termination of active service.

(g) *Retirement allowance of a DROP member.* Notwithstanding the foregoing, the non-job-related disability retirement allowance of a DROP member shall be governed by the guidelines established pursuant thereto to Section 22-204.

(h) *Retirement allowance of a contribution plan participating member.* Notwithstanding the foregoing, the non-job-related disability retirement allowance of a member participating in the defined contribution plan shall be offset by the actuarial equivalent of his account balance in the defined contribution plan as of the date of the disability.

(Code 1993, § 23.1-50; Code 2004, § 78-246; Code 2015, § 22-239; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-240. Eligibility for compensable, job-related disability retirement.

(a) *Compensable, job-related disability.* The requirement of five years of creditable service as a prerequisite for disability retirement shall not be applicable to any member who satisfies the other requirements of Section 22-238(a) and:

(1) Whose disability is compensable under the Virginia Workers' Compensation Act, Code of Virginia, § 65.2-100 et seq., or would be so compensable except for the fact that the member is not covered under the provisions of such Act; or

(2) Who is employed as a firefighter and whose disability is the result of respiratory disease, hypertension or heart disease, unless the medical examiners shall certify, on the basis of competent evidence, that such disability was not suffered in the line of duty; or who is employed as a sworn police officer and whose disability is the result of hypertension or heart disease, unless the medical examiners certify, on the basis of competent evidence, that such disability was not suffered in the line of duty.

(b) Referral for alternate position.

(1) Any member who is otherwise eligible for retirement on the basis of a disability described under subsection (a) of this section and who is determined to be permanently and completely incapacitated from performing the duties required of the member's own position, but who is determined to be capable of performing the duties of another position with the City, shall be eligible for disability retirement if:

a. The member is not placed in an alternative position with the City within one year after the date of the determination that the member is incapable of performing the duties required of the member's former position; or

b. The Chief Administrative Officer certifies to the Board that no alternative position with the City for which the member is reasonably qualified by education, training or experience is available and that such a position is not likely to become available within the one-year period required for placement of the member in an alternative position.

(2) Refusal of an offer of an alternative position with the City shall render the member ineligible to receive disability retirement allowance under this section.

(c) *Successive disabilities.* In the administration of this section, successive disabilities separated by less than six months of active employment shall be considered to be the same disability unless due to entirely unrelated causes.

(d) *Determination of retirement date.* Notwithstanding the requirement of subsection (a) of this section that the effective date of a member's disability retirement shall be after the termination of pay status but shall not be more than 90 days prior to the member's or the member's appointing authority's filing a completed retirement application with the Board, the Board may, in its discretion, upon written application by the member or appointing authority, as the case may be, and upon medical examination and certification by the medical examiner to the Board that the same incapacity continues, extend the effective date for retirement beyond the 90 days, provided that each such extension shall be for 90 days, and not more than three consecutive extensions shall be granted or allowed by the Board to the member. Should the medical examiner after further examination of the member during the period of extension certify that the members' incapacity has been cured or removed, the member shall not be eligible for

disability retirement.

(e) *Termination of pay status.* Retirement under this section shall occur upon the termination of pay status. As used in this section, the term "termination of pay status" means complete and final payment of all compensation, salary or wages owed by the City to the member, including vacation, sick leave or other leave of absence during which the member is paid compensation, salary or wages.

(Code 1993, § 23.1-51; Code 2004, § 78-247; Code 2015, § 22-240; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 22-241. Job-related disability; benefit formula.

(a) *Generally.* Upon retirement for disability as provided in Section 22-240 (job-related), a member shall receive an annual disability retirement allowance payable monthly for life during such member's continued disability commencing one month after the member's date of retirement, in an amount computed in accordance with the following subsections of this section.

(b) Disability service and compensation.

(1) With respect to a member who retires for disability prior to the attainment of the age of 60, the term "disability-average compensation," as used in this section, means the average final compensation that would have been applicable to the member at the age of 60 had the member remained in service until such age, at the same annual rate of creditable compensation as in effect at the date of the member's disability retirement, and the term "disability-credited service," as used in this section, means the smaller of:

a. The creditable service the member would have completed at age 60 had the member remained in service until such age; or

b. The larger of 20 years or twice the member's actual period of creditable service.

(2) With respect to a member who retires for disability after the attainment of the age of 60, the term "disability average compensation" means the member's average final compensation, and the term "disability-credited service" means the member's creditable service.

(c) *1966 minimum guarantee.* Any of the provisions of this section to the contrary notwithstanding, the disability retirement allowance payable to any retired employee who was a member of the system on June 30, 1966, and who qualified or could have qualified for disability retirement under the provisions of this section, shall in no event be less than the service-connected disability retirement allowance that would have been payable had the provisions of the system as in effect at June 30, 1966, been in effect at the member's actual date of disability retirement.

(d) *Benefit formula.* For a member who retires on or after July 1, 1989, for disability pursuant to Section 22-240 (job-related disability) the member shall, subject to the provisions of subsection (e) of this section, receive an annual retirement allowance for life which equals two-thirds of the member's disability-average compensation.

(e) *Reduction for Social Security benefits.* If the retired member is entitled to and is in receipt of permanent disability benefits under the Federal Social Security Act, or upon the retired member's attainment of the age of 65, this retirement allowance will be reduced by 0.65 percent of the member's disability-average compensation times the member's disability-credited service up to a maximum of 20 years.

(f) *Worker's compensation offset (dollar for dollar).* Any of the foregoing provisions to the contrary notwithstanding, the disability retirement allowance payable to any member retiring on or after July 1, 1989, shall be reduced by the amount of compensation, if any, awarded, or entitled to be awarded, to the member under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.) with respect to the disability giving rise to the member's retirement, so long as such compensation is payable.

(g) *Worker's compensation offset (lump sum settlement).* If any member in receipt of a retirement allowance pursuant to this section elects to receive a lump-sum settlement in lieu of periodic payments for disability under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.), the member's disability retirement allowance shall be reduced in the same amount and for the number of months equivalent to the lump sum award amount divided by the amount of the original workers' compensation award amount (i.e., the lump sum award amount divided by the original workers' compensation award amount equals the number of months of continued

reduction).

(h) *Retirement allowance of a DROP member.* Notwithstanding the foregoing, the job-related disability retirement allowance of a DROP member shall be governed by the guidelines established pursuant thereto to Section 22-204.

(i) *Retirement allowance of a contribution plan participating member.* Notwithstanding the foregoing, the job-related disability retirement allowance of a member participating in the defined contribution plan shall be offset by the actuarial equivalent of his account balance in the defined contribution plan as of the date of the disability.

(Code 1993, § 23.1-52; Code 2004, § 78-248; Code 2015, § 22-241; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-242. Reduction in disability retirement allowance due to excess income.

(a) Whenever any member of the Richmond Retirement System receiving a disability retirement allowance pursuant to this section is, prior to the member's normal retirement date, engaged in gainful occupation or work paying more than the difference between the member's disability retirement allowance and the salary payable for the highest step in the pay range shown in the most recent City pay plan for the member's last position with the City, the Board shall reduce the disability retirement allowance by an amount such that the sum of the annual earnings and the annual benefit allowance equals the annual salary payable for the highest step in the pay range shown in the most recent City pay plan for the member's last position with the City, except as may be otherwise provided in Section 22-236.

(b) Any reduction in benefits occurring as a result of this section shall cease as of the day on which the member attains the normal retirement date unless the reduction is in the nature of a repayment of excess income described in subsection (a) of this section, in which case the reduction shall cease upon completion of the repayment.

(Code 1993, § 23.1-53; Code 2004, § 78-249; Code 2015, § 22-242)

Secs. 22-243—22-262. Reserved.

ARTICLE IX. PAYMENT

Sec. 22-263. Basic benefit payment.

The annual retirement allowance of a member shall be payable monthly to such member for such member's life, unless otherwise elected by the member in accordance with this article.

(Code 1993, § 23.1-54; Code 2004, § 78-281; Code 2015, § 22-263)

Sec. 22-264. Optional benefits.

(a) *Generally.* Each member shall have the right, at any time, not after the later of the effective date of the member's retirement or the date of the written notification to the Board of the retirement of the member, to elect to have such member's retirement allowance payable under one of the options set forth in subsections (b), (c), (d) and (e) of this section, in lieu of the retirement allowance otherwise payable upon retirement. The amount of any such optional retirement allowance shall be the actuarial equivalent of the amount of such retirement allowance otherwise payable to the member, provided that if a member retires after the member's normal retirement date, the actuarial equivalent shall be determined as of the member's normal retirement date rather than at the member's actual retirement date. The member shall make such an election by written notice to the Board and such an election shall be subject to the approval of the Board.

(b) *Joint and survivor option.* A member may elect to receive a decreased retirement allowance during the member's lifetime and have such retirement allowance, or a designated fraction thereof, continued after the member's death to one other person, called a contingent beneficiary, during the lifetime of such contingent beneficiary, provided that in the case of a member who retires for disability under the provisions of Section 22-238 or 22-240, the election of this option need not be made and shall not become effective until the member attains the date that would have been the member's normal retirement date had the member remained in service until then.

(c) *Pop-up joint and survivor option.* A member may elect to receive a decreased retirement allowance during the member's lifetime and have such retirement allowance or a designated fraction thereof continued after the member's death to one other person called a contingent beneficiary during the lifetime of such contingent

beneficiary. If the contingent beneficiary should predecease the member, then the member's retirement allowance shall increase to the amount of the single life annuity described in Section 22-263 the date following the contingent beneficiary's death. In the case of a member who retires for disability under the provisions of Section 22-238 or 22-240, the election of this option need not be made and shall not become effective until the member attains the date that would have been the member's normal retirement date had the member remained in service until then.

(d) *Level payment option.* A member may elect to receive a reduced retirement allowance that will remain level for the lifetime of the member.

(e) *Smooth-out option.*

(1) A member who retires for early service retirement under the provisions of Section 22-198 may elect to receive an increased retirement allowance up to the first day of the month following the member's 65th birthday, and a decreased retirement allowance thereafter.

(2) For the purpose of determining the payments under this optional form of payment, the amount of any member's primary Social Security benefit shall be established by the Board on the basis of a table, to be updated annually in accordance with changes in the Federal Social Security Act. The Board may, in its discretion, establish the amount of any member's primary Social Security benefit on the basis of the member's actual Social Security award in lieu of using the procedure described in the preceding sentence of this section. If the retired member does not qualify for or loses primary Social Security benefits to which such member is entitled under the Federal Social Security Act because of failure to make application therefor, entering into covered employment, or otherwise, such primary Social Security benefits shall nevertheless be considered as being received by such member for purposes of this article. If in the determination of the amount of any retirement allowance payable under any of the provisions of this article it is necessary that the amount of an actual Social Security benefit be known, it shall be the responsibility of the member to supply such information to the Board on request. If such information is not supplied when requested, the Board shall make any reasonable assumption it may deem proper as to the amount of such benefit.

(f) *Election of deceased member deemed null and void.* The election by a member of any one of the options provided in subsections (b) through (e) of this section shall be null and void if the member dies prior to retirement, or prior to the date the option becomes effective, and the election by a member of the option provided in subsections (b) and (c) of this section shall be null and void if the designated contingent beneficiary dies before the member's retirement or before the date the option becomes effective.

(g) *Revocation of election.* A member who has elected any one of the options provided in subsections (b) through (e) of this section may, at any time prior to the later of the effective date of the member's retirement or the date the option becomes effective, revoke such an election by written notification to the Board. The election of any one of such options shall automatically revoke any previous election then in effect.

(h) *Board option to decline election.* The Board may, in its discretion, decline to permit election of such option if the amount of any retirement allowance which would be payable on an option basis elected pursuant to this section is less than $20.00 per month.

(i) *Election of payment option and DROP participation by member.* Notwithstanding the foregoing, the election under this section of an optional form of payment by a member who has elected to participate in the deferred retirement option program (DROP) established pursuant to Section 22-204 must be made at the same time as he elects to participate in the DROP established pursuant to Section 22-204. Any changes or adjustments to such election may be made only in accordance with subsections (f) and (g) of this section.

(j) *DROP member allowance credited to separate account.* The allowance of a DROP member shall be credited to a separate account within the system, subject to the terms and conditions of the guidelines established pursuant to Section 22-204 (in lieu of payment to such member) and, upon such member's ceasing to be an employee, the separate account shall be distributed in accordance with the guidelines established pursuant to Section 22-204.

(Code 1993, § 23.1-55; Code 2004, § 78-282; Code 2015, § 22-264; Ord. No. 2003-254-226, § 1, 7-28-2003)

Sec. 22-265. Lump sums.

(a) The Board may set a dollar amount for a monthly retirement benefit that shall be paid in the form of a lump sum. Except as provided in subsection (c) of this section, monthly benefits of more than the amount determined by the Board shall not be paid in the form of a lump sum. Notwithstanding the above, monthly benefits whose lump sum value is above the amount as shall be from time to time established by Section 411(a)(11) of the Internal Revenue Code shall require member consent before a lump sum is paid. Any member or beneficiary shall be required to receive a lump sum distribution of the amount as shall be from time to time established by Section 411(a)(11) of the Internal Revenue Code or less.

(b) All lump sums shall be based on the applicable interest rate and mortality table as defined in Section 417(e) of the Internal Revenue Code effective on the first day of the calendar year in which payment is made.

(c) Upon the written agreement of the member and the Richmond Retirement System, monthly benefits payable to a member who is retired on a disability retirement allowance may be paid in the form of a lump sum by purchase of one or more annuities or a combination of lump sum and annuity payments.

(Code 1993, § 23.1-56; Code 2004, § 78-283; Code 2015, § 22-265)

Sec. 22-266. Rollover of lump sum distributions.

(a) For purposes of this section, the following terms have the meanings assigned to them in section 401(a)(31) of the Internal Revenue Code and, to the extent not inconsistent therewith, shall have the following meanings:

Eligible retirement plan means a defined contribution plan which is either an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code other than an endowment contract, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the prospective recipient's eligible rollover distribution. For distributions made before January 1, 2002, for an eligible rollover distribution payable to a participant's surviving spouse, an eligible retirement plan means only an individual retirement account or individual retirement annuity. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to account separately for amounts transferred into such plan from this plan. Effective for distributions made after December 31, 2001, the definition of eligible retirement plan applicable to a participant shall also apply for a distribution to a participant's surviving spouse and to a participant's spouse or former spouse who is the alternate payee under a domestic relations order accepted by the system.

Eligible rollover distribution means any distribution other than:

(1) A distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made either for the life or life expectancy of the recipient or the joint lives or joint life expectancies of the recipient and the recipient's beneficiary who is an individual or for a specified period of ten or more years; or

(2) A distribution to the extent it is required under the minimum distribution requirement of Section 401(a)(9) of the Internal Revenue Code.

(b) Effective January 1, 1993, notwithstanding anything to the contrary in this article, but subject to any de minimis or other exceptions or limitations provided for under Section 401(a)(31) of the Internal Revenue Code, any prospective recipient, whether a member, a surviving spouse, a current or former spouse who is an alternate payee under a domestic relations order accepted by the system or any other person eligible to make a rollover, of a distribution from the City plan which constitutes an eligible rollover distribution, to the extent otherwise includible in the recipient' s gross income, may direct the Board to pay the distribution directly to an eligible retirement plan.

(c) Any such direction shall be filed with the Board in such form and at such time as the Board may require and shall adequately specify the eligible retirement plan to which the payment shall be made. The Board shall make payment as directed only if the proposed transferee plan will accept the payment. Any such plan-to-plan transfer shall be considered a distribution option under this plan and shall be subject to all the usual distribution rules of the system, including, but not limited to, the requirement of an advance explanation of the option. The Board is

authorized in its discretion, on a uniform and nondiscriminatory basis, to apply any discretionary de minimis or other discretionary exceptions or limitations provided for under Section 401(a)(31) of the Internal Revenue Code in effecting or declining to effect plan-to-plan transfers under this section. Within a reasonable time (generally not more than 90 nor less than 30 days) before the benefit payment date of a prospective recipient of an eligible rollover distribution from the plan, the Board shall provide the prospective recipient with a written explanation of the rollover and tax rules required by Section 402(f) of the Internal Revenue Code.

(d) In the event of a mandatory distribution greater than $1,000.00 in accordance with the provisions of Section 22-265, if the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly in accordance with this section, then the Board will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. The Board will select the individual retirement plan in accordance with the safe harbor provisions established under Code of Virginia, § 51.1-803(c), and such provisions shall be interpreted and administered in accordance therewith. This mandatory rollover requirement does not apply to a lump sum payment made to a surviving spouse or former spouse who is an alternate payee under a domestic relations order accepted by the system prior to June 10, 2002.

(Code 1993, § 23.1-57; Code 2004, § 78-284; Code 2015, § 22-266; Ord. No. 2006-22-49, § 1, 2-27-2006)

Secs. 22-267—22-295. Reserved.

ARTICLE X. DEATH BENEFITS

Sec. 22-296. Death prior to retirement.

(a) Should a member who became an employee of the City on or before June 13, 1988, and who at the member's death has one or more years of creditable service die in service at any time before retirement or while a current DROP member, a benefit equal to $16.67 multiplied by the number of months of creditable service, but not to exceed $1,000.00, shall be payable in a lump sum in accordance with Section 22-298, in addition to any other death benefits provided under this article.

(b) Should a member or former member who became an employee of the City on or before June 13, 1988, and who at the time of the member's death has one or more years of creditable service die after termination of service, but prior to retirement under the provisions of this article, provided such person has been continuously disabled from the date of termination of service to date of death, and the disability has been such as would qualify the member for disability retirement in accordance with Section 22-238 or 22-240, without regard to any creditable service requirements or actual retirement thereunder and provided, further, that written notification of such disability is given to the Board by the member, the member's appointing authority or such person entitled to such death benefits in accordance with Section 22-298, not later than one year after termination of service, an additional benefit equal to $16.67 multiplied by the number of months of creditable service, but not to exceed $1,000.00, shall be payable in a lump sum in accordance with Section 22-298.

(c) Should a member or former member die without a surviving spouse prior to retirement under the provision of this article, a death benefit equal to the balance in his member contribution account determined as of the date of death shall be payable in a lump sum in accordance with Section 22-298.

(Code 1993, § 23.1-58; Code 2004, § 78-311; Code 2015, § 22-296; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-60-128, § 2, 5-30-2006)

Sec. 22-297. Death after retirement.

(a) Should a former member who had one or more years of creditable service die at any time after June 30, 1966, while in receipt of a retirement allowance under the provisions of this article (and not a current DROP member), a benefit equal to $16.67 multiplied by the number of months of the former member's creditable service, but not to exceed $1,000.00, shall be payable in a lump sum in accordance with Section 22-298, in addition to any other death benefits provided under this article, provided the former member became an employee of the City on or before June 13, 1988.

(b) In the event a member dies after the effective date of retirement and his or her monthly benefit ceases, any excess of the balance in his or her member contribution account as of the effective date of retirement over the

total retirement allowance received by the member prior to death shall be paid in the same manner as the death benefit provided in subsection (a) of this section.

(Code 1993, § 23.1-59; Code 2004, § 78-312; Code 2015, § 22-297; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-60-128, § 2, 5-30-2006)

Sec. 22-298. Designation of recipient of death benefits.

All lump sum payments due under this article upon the death of a member or retired member of the Richmond Retirement System shall be paid to such person, if any, as the member or retired member shall have nominated by written designation signed in such manner as may be required by the Board and filed with the Board before the member's death. Such nomination may be changed from time to time by written designation by the member, signed and filed as stated in this section. If no designation has been made, the proceeds shall be paid to the persons surviving at the death of the member in the following order of precedence:

(1) First, to the spouse of the member.

(2) Second, if no surviving spouse, to the children of the member and descendants of deceased children, per stirpes.

(3) Third, if none of the persons in subsection (1) or (2) of this section, to the parents of the member.

(4) Fourth, if none of the persons in subsections (1) through (3) of this section, to the duly appointed executor or administrator of the estate of the member.

(5) Fifth, if none of the persons in subsections (1) through (4) of this section, to other next of kin of the member entitled under the laws of the domicile of the member at the time of the member's death.

(Code 1993, § 23.1-60; Code 2004, § 78-313; Code 2015, § 22-298)

Sec. 22-299. Allowance for certain surviving spouses, etc.

(a) *Death of active member who is otherwise eligible for retirement.* Should a member die in service at any time before retirement and after attaining the normal retirement date or after becoming eligible for early service retirement under Section 22-198, the surviving spouse, if any, shall receive a retirement allowance payable monthly for life equal to and commencing at the same date as the retirement allowance that would have been payable to the member, computed in accordance with Section 22-202, had the member survived and retired on the first day of the month following the member's death after having elected to have the member's allowance paid under the joint and last survivor option with 100 percent of the amount payable to the member continuing after the member's death to the spouse as provided for in Section 22-264(b). In the event a surviving spouse dies, any excess of the balance in the member contribution account as of the date of the member's death, over the total retirement allowance received by the surviving spouse prior to death shall be paid in a lump sum in accordance with Section 22-298 as though the surviving spouse had predeceased the member.

(b) *Death of disability retirement allowance recipient.* Should a member retire for disability under the provisions of Section 22-238 or 22-240, after the member has satisfied the age and service requirements for early service retirement under Section 22-198, and then die prior to the attainment of the date that would have been the member's normal retirement date had the member remained in service until then, the surviving spouse, if any, shall receive a retirement allowance payable monthly for life equal to and commencing at the same date as the allowance that would have been payable to the member, computed in accordance with Section 22-202, had the member remained in service and retired under the provisions of Section 22-198 on the first day of the month following the member's death with the same average final compensation as at the member's date of disability retirement, after having elected to have the member's allowance paid under the joint and last survivor option with 100 percent of the amount payable to the member continuing after the member's death to the spouse as provided for in Section 22-264(b).

(c) *Death in line of duty.* Should a member die in service at any time before retirement from a cause compensable under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.) or one which would be so compensable except for the fact that the member is not covered under the provisions of such Act, the surviving spouse, if any, shall receive a retirement allowance payable monthly for life commencing on the first day of the month following the member's death and equal to the allowance that would have been payable to the member,

computed in accordance with Section 22-202, had the member remained in service and retired upon reaching age 65 with the same average final compensation as at the member's death, after having elected to have the member's allowance paid under the joint and last survivor option with 100 percent of the amount payable to the member continuing after the member's death to the contingent beneficiary provided for in Section 22-264(b), with the member's spouse designated as contingent beneficiary. Any allowance becoming payable under the provisions of this subsection (c) shall be terminated in the event of the remarriage of the surviving spouse in receipt of the allowance.

(d) *Survivor allowance if no spouse.* If the member leaves no spouse, or the spouse dies or remarries before the youngest child of the deceased member, if any, has attained the age of 18 years, then such child or children, if any, under the age of 18 years shall be paid the retirement allowance provided for in subsection (c) of this section until such child or children die or attain the age of 18 years, whichever shall first occur. Such retirement allowance shall be determined assuming a beneficiary's age equal to the member's age and shall be divided equally among all eligible dependent children.

(e) *Reduction of death benefit for workers' compensation award.* Any compensation finally awarded, or entitled to be awarded, under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.) for the death of such member shall be deducted from the allowance provided for in subsection (c) of this section and the excess of the benefit, if any, shall be paid to the person herein specified. When the time for which payment of the compensation finally awarded under that Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.) has elapsed, the full allowance otherwise payable shall thereafter be paid.

(f) *Reduction of death benefit for workers' compensation lump sum award.* If the death of a member should result from a cause compensable under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.), and such member's surviving spouse elects to receive a lump-sum settlement in lieu of periodic payments for death compensable under the Virginia Workers' Compensation Act (Code of Virginia, § 65.2-100 et seq.), the survivor allowance shall be reduced for the number of months equivalent to the lump sum award amount divided by the amount of the original workers' compensation award amount (i.e., the lump sum award amount divided by the original workers' compensation award amount equals the number of months of continued reduction).

(g) *Purchase of service credit by surviving spouse.* If a vested member dies in service within three years of being eligible for early service retirement based upon years of service, the surviving spouse of such member may purchase service credit up to a maximum of three years to attain the deceased member's retirement eligibility. The election to purchase such service credit must be made in accordance with Section 22-177. The applicable rates for the purchase of such service shall be ten percent per year for general members and 15 percent per year for public safety members. Such rate shall be applied to the greater of the member's present annual compensation or the average annual creditable compensation for the member's 36 highest consecutive months of creditable compensation. The surviving spouse must make the election to purchase service credit within 90 days of the enactment of this section or of the member's death, whichever should occur later. The payment for the purchase of service must be made in a lump sum within the same 90-day period. The survivor allowance shall be payable in accordance with subsection (a) of this section.

(h) *Governing authority of DROP member's death benefits.* Notwithstanding the foregoing, the death benefits applicable to a DROP member shall be governed by the terms of the guidelines established pursuant to Section 22-204.

(Code 1993, § 23.1-61; Code 2004, § 78-314; Code 2015, § 22-299; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2006-60-128, § 2, 5-30-2006)

Secs. 22-300—22-316. Reserved.

ARTICLE XI. EXECUTIVE BENEFITS

Sec. 22-317. Additional retirement allowance for certain City officials.

(a) *Additional creditable service.* Any member who is employed in the senior executive group as defined in subsection (k) of this section and has been in service for at least ten years in the senior executive group, may have such member's creditable service counted as two years for each year of creditable service in these positions up to a maximum of 15 additional years of creditable service for the purpose of calculation of retirement allowance under

the provisions of this article. All such qualifying members must make the election to utilize the provisions of this subsection within 90 days of the enactment of this provision or within 30 days of the member's date of employment in said position, whichever should occur later. Any member who elects to utilize the provision of this subsection shall be required to make contributions to the system in an amount determined by the system's actuary and approved by the Board.

(b) *Options for less than ten years of service.* Any member with five or more but less than ten continuous years of service in the senior executive group who has made the contribution required for the additional creditable service but who leaves employment may elect to receive a refund of such contributions plus interest at a rate to be determined by the Board or to receive a retirement allowance based upon the member's actual creditable service plus any additional service purchased pursuant to the provisions of this subsection (b). Any member who elects to receive a retirement allowance based upon the member's actual creditable service plus any additional service purchased in accordance with this subsection (b) shall be required to pay the actuarial equivalent cost for such additional service credit. However, the City may pay such cost if authorized by the City Council. Any election by the City to pay such cost shall be in lieu of the member's payment of such cost required by this subsection and is intended to be a "pick-up" as permitted under Section 414(h) of the Internal Revenue Code.

(c) *Purchase of additional service.* Within 30 days of the date of separation from City employment, any vested member of the senior executive group may purchase up to a maximum of five years of unqualified, additional which shall be counted as creditable service to meet the requirement in subsection (a) of this section that a member be in service for ten years in the senior executive group. Such cost for the forgoing additional service purchased shall be equal to the actuarial equivalent as determined by the retirement system's actuary and shall be paid by the member; provided, however, that the City may pay such cost if authorized by the City Council. Any election by the City to pay such cost shall be in lieu of the member's contribution required by subsection (a) of this section and is intended to be a "pick-up" as permitted under Section 414(h) of the Internal Revenue Code.

(d) *Age 65 allowance.* Any member in service who 1) has ten or more years of creditable service in the senior executive group, 2) is at the time of the member's retirement employed in the senior executive group as defined in subsection (k), 3) has attained the age of 65, and 4) retires from active service pursuant to the provisions of this article, shall be paid a supplemental allowance which, when added to the retirement allowance payable under the preceding sections of this article, shall be equal to 50 percent of such member's current salary at the time of retirement. The allowance provided for in this section shall be paid in equal monthly installments.

(e) *Disability retirement.* Any member in service who has five years or more of creditable service in the senior executive group as defined in subsection (k) of this section may, at any time before the member's normal retirement date, retire on account of permanent disability upon filing a retirement application with the board pursuant to the provisions of Section 22-238 or 22-240; provided that the Medical Examiner's certification shall be that the member has been completely incapacitated by reason of sickness or injury contracted after the member's date of employment, from performing the usual duties attendant to the member's employment and that such disability is likely to be permanent.

(f) *Disability retirement allowance.* A member retiring under the provisions of this subsection shall receive an allowance equal to five percent of the member's current salary multiplied by the number of years, not in excess of ten, that such member has served in the senior executive group as defined in subsection (k) of this section.

(g) *Worker's compensation offset (dollar for dollar).* Any of the foregoing provisions to the contrary notwithstanding, the disability retirement allowance payable to any member retiring after December 31, 1981, shall be reduced by the amount of compensation, if any, awarded to the member under the Virginia Worker's Compensation Act (Code of Virginia, § 65.2-100 et seq.) with respect to the disability giving rise to the member's retirement, so long as such compensation is payable.

(h) *Worker's compensation offset (lump sum award).* If any member in receipt of a retirement allowance pursuant to this section elects to receive a lump-sum settlement in lieu of periodic payments for disability under the Virginia Worker's Compensation Act (Code of Virginia, § 65.2-100 et seq.), the member's disability retirement allowance shall be reduced in the same amount and for the number of months equivalent to the lump sum award amount divided by the amount of the original workers' compensation award amount (i.e., the lump sum award amount divided by the original workers' compensation award amount equals the number of months of continued

reduction).

(i) *Additional optional forms of payment allowance.* Each member in the senior executive group as defined in subsection (k) of this section shall have the right to elect to have the member's retirement allowance decreased during the member's lifetime and have such retirement allowance, or a designated fraction thereof, continued after the member's death to one other person, called a contingent beneficiary. In the case of a member who retires for disability under the provisions of subsection (f) of this section and Section 22-238 or 22-240 the election of this option need not be made and shall not become effective until the member attains the date that would have been the member's normal retirement date had the member remained in service until then. The amount of any such optional retirement allowance shall be the actuarial equivalent of the amount of the retirement allowance otherwise payable to the member. The member shall make such an election by written notice to the board and such an election shall be subject to the approval of the Board. The election by a member of this option shall be null and void if the member dies prior to retirement, or prior to the date the option becomes effective, or if the designated contingent beneficiary dies before the member's retirement or before the date the option becomes effective. A member who has elected this option may revoke such election by written notice to the Board at any time prior to the later of the effective date of the member's retirement or the date the option becomes effective.

(j) *Survivor allowance.* Should any member in the senior executive group as defined in subsection (k) of this section die in service at any time before retirement and after attaining the member's normal retirement date, the member's surviving spouse, if any, shall receive a retirement allowance payable monthly for life equal to and commencing at the same date as the retirement allowance that would have been payable to such spouse in accordance with the retirement benefit formula provided for in subsection (c) of this section, had the member survived and retired on the first day of the month following the member's death after electing to have the member's allowance paid under the joint and last survivor option provided for in subsection (h) of this section, with 100 percent of the amount payable to the member continuing after the member's death to the contingent beneficiary, with the member's spouse designated as contingent beneficiary.

(k) *Makeup of senior executive group.* For purposes hereof, the senior executive group means the Mayor, Chief Administrative Officer, Deputy Chief Administrative Officer, City Attorney, Deputy City Attorney, Director of Citizen Service and Response, Director of Economic Development, Director of Housing and Community Development, Director of Planning and Development Review, City Auditor, Inspector General, City Assessor, Library Director, Director of Budget and Strategic Planning, City Clerk, Executive Director of the Richmond Retirement System, Executive Director of the Richmond Behavioral Health Authority, Director of Procurement Services, Chief Capital Projects Manager, Commissioner of Buildings, Director of the Office of Minority Business Development, Director of the Office of Animal Care and Control, Director of the Office of Community Wealth Building, and Chiefs of Staff of the Mayor's Office, the City Council and the Chief Administrative Officer's Office or a head of a department of government of the City.

(Code 1993, § 23.1-62; Code 2004, § 78-341; Code 2015, § 22-317; Ord. No. 2004-27-41, § 1, 2-23-2004; Ord. No. 2003-254-226, § 1, 7-28-2003; Ord. No. 2004-225-222, § 2, 7-26-2004; Ord. No. 2004-357-352, § 1, 12-13-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-214-180, § 1, 7-25-2005; Ord. No. 2005-290-247, § 1, 11-14-2005; Ord. No. 2005-342-2006-47, § 1, 2-27-2006; Ord. No. 2006-90-93, § 4, 4-24-2006; Ord. No. 2006-135-106, § 1, 5-8-2006; Ord. No. 2006-252-270, § 1, 11-13-2006; Ord. No. 2009-207-214, § 1, 11-23-2009; Ord. No. 2009-220-2010-8, § 2, 1-25-2010; Ord. No. 2010-111-136, § 1, 7-12-2010; Ord. No. 2012-58-37, § 1, 4-9-2012; Ord. No. 2015-241-237, § 1, 12-14-2015; Ord. No. 2018-080, § 1, 5-14-2018; Ord. No. 2018-321, § 1, 1-14-2019)

Secs. 22-318—22-337. Reserved.

ARTICLE XII. MAXIMUM BENEFITS AND OTHER LIMITATIONS AND SPECIAL RULES

Sec. 22-338. Limitation on creditable compensation taken into account.

Notwithstanding the foregoing, creditable compensation taken into account for purposes of determining benefits under the Richmond Retirement System shall be limited by the compensation limit pursuant to Section 401(a)(17) of the Internal Revenue Code. For purposes of this section, the compensation limit, for years beginning on or after July 1, 2001, is $200,000.00, as adjusted in increments of $5,000.00 from time to time by the adjustment factor described in Section 415(d) of the Internal Revenue Code, on the basis of a base period of the calendar quarter beginning July 1, 2001. In determining average final compensation for periods beginning on or after July 1, 2001,

the limit on creditable compensation applied to compensation attributable to periods prior to July 1, 2001, shall be $200,000.00. For purposes of applying the limitation applicable to each year, the limit for a plan year shall be the limitation in effect for the calendar year in which the plan year begins determined without increases in the limitation for subsequent years.

(Code 1993, § 23.1-63; Code 2004, § 78-371; Code 2015, § 22-338)

Sec. 22-339. Limitation on annual benefits.

(a) Notwithstanding any other section of this chapter, the annual benefit under the Richmond Retirement System of any member and any related death or other benefit shall, if necessary, be reduced to the extent required by Section 415(b) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to Section 415(d) of the Internal Revenue Code.

(b) Notwithstanding any other section of this chapter, for plan years beginning before January 1, 2000, if a member participates in both the system and a qualified defined contribution plan maintained by any participating employer, the annual benefits under the Richmond Retirement System and the annual additions to any qualified defined contribution plan maintained by any participating employer shall not exceed the combined limit test described in Section 415(e) of the Internal Revenue Code. If necessary, the annual additions under the qualified defined contribution plan shall be reduced before benefits under the system are reduced in order to comply with such combined limit test.

(Code 1993, § 23.1-64; Code 2004, § 78-372; Code 2015, § 22-339)

Sec. 22-340. Military service.

Notwithstanding any section of this chapter to the contrary, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code and the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 USC 4301—4333.

(Code 1993, § 23.1-65; Code 2004, § 78-373; Code 2015, § 22-340)

Chapter 23

SOLID WASTE*

***Cross reference—**Clean City Commission, § 2-1157 et seq.; disposal of waste tattooing and tattoo parlors, § 6-94; disposal of rubbish, trash, waste material or debris, § 7-29; throwing trash, litter or debris into canals or upon sidewalks or open areas, § 8-482; throwing trash, litter or debris into waterways or open areas at Bosher's Dam area, § 8-523; refuse, litter and weed control, § 11-102 et seq.; dumping trash, garbage, refuse, litter or other matter on highway, right-of-way or private property, § 12-119; health, Ch. 15; utilities, Ch. 28.

State law reference—Authority to require property owner to remove garbage and refuse and to operate a garbage and refuse collection and disposal service, Code of Virginia, §§ 15.2-901, 15.2-927, 15.2-928, 15.2-937; litter control and recycling, Code of Virginia, § 10.1-1414 et seq.; Virginia Waste Management Act, Code of Virginia, § 10.1-1400 et seq.

ARTICLE I. IN GENERAL

Sec. 23-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appliance means a household or office device operated by gas or electric current.

Ashes means refuse resulting from the burning of wood, coal, coke and other combustible material.

Building materials means any material such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.

Bulk container means a metal container of not less than six cubic yards nor larger than eight cubic yards, made of watertight construction with doors opening on two sides and top, and constructed so that it can be emptied mechanically by specially equipped trucks.

Bulk item means any refuse, other than an appliance or hazardous refuse, that does not fit into an empty mobile container or supercan.

Business trash means any waste accumulation of dust, paper and cardboard, excelsior, rags or other accumulations, other than garbage or household trash, which are usually attendant to the operation of stores, offices and similar businesses.

Commercial establishment means any retail, restaurant, manufacturing, wholesale, institutional, religious, governmental or other nonresidential establishment at which garbage or trash may be generated.

Dwelling unit means a room or group of rooms within a building constituting a separate and independent housekeeping unit occupied or intended for occupancy by one family and containing kitchen and sleeping facilities, provided that a dwelling unit available for occupancy for periods of less than one month shall be considered a lodging unit as defined by Section 30-1220.

Garbage means the byproduct of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors or which, during or after decay, may serve as breeding or feeding material for insects or animals.

Hazardous refuse means materials such as poison, acids, caustics, chemicals, infected materials, offal, fecal matter and explosives.

Household trash means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

Industrial waste means all waste, including solids, semisolids, sludges and liquids, created by factories, processing plants or other manufacturing enterprises.

Litter means garbage, refuse, waste materials or any other discarded, used or unconsumed substance which is

not handled as specified in this chapter.

Mobile containers and *supercans* mean any containers for refuse provided by the City for use in the City, having a capacity of 90 to 95 gallons and equipped with wheels for mobility.

Refuse means solid waste accumulations consisting of garbage, household trash, and business trash, as defined in this section.

Tree and shrubbery trimmings means waste accumulation of tree branches, tree limbs, parts of trees, bushes, shrubbery and cuttings or clippings created as refuse of trees or bushes.

Yard waste means waste accumulations of lawn, grass or shrubbery cuttings or clippings and leaves, free of dirt, rocks, large branches and bulky or noncombustible material.

(Code 1993, § 31-1; Code 2004, § 86-1; Code 2015, § 23-1; Ord. No. 2018-027, § 1, 2-26-2018)

Cross reference—Definitions generally, § 1-2.

Sec. 23-2. Private refuse collectors or haulers.

(a) No person shall engage in the business of collecting, hauling or transporting trash, garbage, litter or other similar substances in the City without first obtaining a license from the appropriate City agency. Any person engaging in such business shall conform to applicable ordinances, regulations of the Director of Public Works and requirements of other City departments. Upon failure to so conform, such permission shall be subject to revocation by the Director of Public Works.

(b) All vehicles used for transporting refuse shall be fully enclosed or completely covered with a tarpaulin or a metal cover secured in such manner as to prevent material from leaking, spilling or blowing from such vehicle and, in addition, protected in such manner as to prevent odors and leakage. Additionally, for any contractor engaged in the demolition of any building or structure when hauling or moving any materials away from the site or location of such demolition, the vehicle must be so loaded and operated as to not violate this chapter. The driver of any vehicle shall be responsible for ensuring that no litter is thrown from the vehicle and that no litter occurs through the lack of proper covering.

(Code 1993, § 31-2; Code 2004, § 86-2; Code 2015, § 23-2)

State law reference—Vehicle construction, maintenance and loading must prevent escape of contents, Code of Virginia, § 46.2-1156.

Sec. 23-3. Bulk containers utilized by commercial establishments.

Any commercial establishment using a bulk container for its refuse shall employ the services of a private contractor to service that container. Such container shall at all times be covered and shall be clean, neat and maintained in a good state of repair. Cleaning up materials spilled from the container when emptying shall be the responsibility of the private contractor or the property owner or occupant. No refuse shall be placed adjacent to any bulk container. The property owner of any establishment for which a bulk container screening requirement applies must maintain such screening in a clean and neat condition and in good state of repair.

(Code 1993, § 31-3; Code 2004, § 86-3; Code 2015, § 23-3)

Sec. 23-4. Hazardous refuse.

No contagious disease refuse or any other refuse that may cause a public health hazard shall be placed in any receptacle used for collection by the City or collection by any private agency, unless so authorized under this section. In particular, the following types of refuse items shall be given special care and preparation before disposal of the items in any refuse container:

(1) *Hypodermic syringe, needle or similar instrument.* No person shall dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering the instrument or device inoperable and incapable of reuse. Such hypodermic syringe, needle, instrument or device shall not be disposed of without safeguarding by wrapping or securing the syringe, needle, instrument or device in a suitable manner so as to avoid the possibility of causing injury to the collection personnel.

(2) *Ashes.* Ashes that are to be collected by the City or private collectors must have been wetted and cooled to the touch prior to collection. Ashes shall be placed in suitable containers of such size and weight as stipulated in Section 23-72 and shall not be placed with the normal refuse unless separately wrapped, so that they will not cause injury to the collection personnel.

(3) *Pressurized cans.* All pressurized cans containing pesticides or any other dangerous materials shall be released of all pressure before being deposited in a receptacle for collection by the City or any private collection agency.

(4) *Glass.* All broken glass or any type of glass that may cause injury to refuse collection personnel shall be separately wrapped to prevent injury and placed with the normal refuse.

(5) *Pesticides.* All pesticide containers and other poisonous containers shall be emptied before being placed for collection.

(Code 1993, § 31-4; Code 2004, § 86-4; Code 2015, § 23-4; Ord. No. 2005-144-121, § 1, 6-13-2005)

Sec. 23-5. Construction or use of commercial-type incinerators for burning solid waste.

It shall be unlawful for any person to construct or use any commercial-type incinerator for the burning of rubbish or other readily combustible solid waste material in any zoning district of the City except those areas zoned for industrial or agricultural uses.

(Code 1993, § 31-5; Code 2004, § 86-5; Code 2015, § 23-5)

Sec. 23-6. Private landfill.

No person shall operate a disposal site of any kind on any property within the City for the disposal or storage of trash, garbage, refuse, litter, junk, demolition materials or other such substances without first obtaining the approval of the Council. Such approval may be granted only upon the Council's determining that the applicant has met all of the requirements of law, including, but not limited to, requirements pertaining to on-site grading and drainage.

(Code 1993, § 31-6; Code 2004, § 86-6; Code 2015, § 23-6)

State law reference—Landfill permit from state required, Code of Virginia, § 10.1-1408.1.

Sec. 23-7. Abatement by City.

(a) In addition to the other penalties provided in Section 1-16, whenever the Chief Administrative Officer determines that there has been a violation of one or more of the sections of this chapter, the Chief Administrative Officer shall give notice in writing of that fact to the owner or occupant, or both, of the property on which such violation exists, which notice shall state that the owner or occupant, or both, shall abate such violation within ten days from the date the notice was served. Such notice shall set forth the location and nature of the violation.

(b) Service of notice required to be given under this section shall be made by mailing the notice to the last known street or post office address of the person, agent, executor, administrator, trustee, guardian or occupant to whom it is directed by mail or by delivery thereof in person. Proof of so mailing or delivering the notice shall be sufficient evidence that the notice was served, and the date of mailing or delivery, as the case may be, shall be the date of service. The term "proof of mailing" shall include either the use of certified mail or a written affirmation signed by the sender that reflects the date of mailing. If the last known street or post office address of the person, agent, executor, administrator, trustee, guardian or occupant is unknown or the notice so mailed is returned undelivered by the post office, service of the notice shall be made by posting the notice on the land or premises on which the violation exists or on the land or premises abutting the sidewalk, street or alley on which the violation exists. Proof of posting the notice shall be sufficient evidence that the notice was served, and the date of posting shall be the date of service.

(Code 1993, § 31-7; Code 2004, § 86-7; Code 2015, § 23-7; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 23-8. Appeal of abatement by City.

(a) A person so notified under Section 23-7 may appeal in writing to the Chief Administrative Officer within ten days following service and ask to be heard. Upon receipt of such appeal, the Chief Administrative Officer shall

designate a Hearing Officer to consider the appeal within ten days. Such Hearing Officer shall issue a finding within three days following such hearing. If compliance is required, abatement shall take place within ten days following the issuance of a finding.

(b) If there is no appeal or if the Hearing Officer determines that compliance with the abatement notice is proper and if an owner or occupant so notified fails to comply within the ten days following notice or a finding by a Hearing Officer, whichever is later, the Chief Administrative Officer shall cause the violation to be abated and shall transmit a statement of charges to the owner or occupant and shall also transmit to the Director of Finance a statement of all costs incurred thereby, which shall be added to the taxes assessed against the real estate on which the violation existed for the ensuing tax year and shall be collected with such taxes by any manner prescribed by law for the collection of City taxes, if the owner or occupant has not made payment prior thereto.

(Code 1993, § 31-8; Code 2004, § 86-8; Code 2015, § 23-8; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 23-9. Emergency requiring immediate abatement.

Should the Chief Administrative Officer determine that a violation of one or more of the sections of this chapter has created an emergency that requires immediate abatement, the Chief Administrative Officer may call upon the person so violating to abate the condition at once. If abatement does not take place, the Chief Administrative Officer may cause the violation to be abated, and the cost of abatement shall be collected as set forth in this chapter. If this section is invoked, the alleged violator shall be entitled to an administrative hearing with regard to any challenge to the propriety of the charge assessed for abatement.

(Code 1993, § 31-9; Code 2004, § 86-9; Code 2015, § 23-9; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 23-10. Injunction.

Nothing contained in this chapter shall preclude the City at any time from applying to a court of competent jurisdiction for an injunction to abate the violation of any section of this chapter or to otherwise maintain an action to compel a responsible party to abate, raze or remove a public nuisance under authority of State law.

(Code 1993, § 31-10; Code 2004, § 86-10; Code 2015, § 23-10)

Sec. 23-11. Permit and fees for disposal of inert solid waste at East Richmond Road Landfill.

(a) *Applicability.* The requirements imposed by this section apply to the disposal of inert solid waste at the East Richmond Road Landfill, operated by the Department of Public Works. For purposes of this section, the term "inert solid waste" means waste that is not chemically active.

(b) *Permit.* The Director of Public Works shall establish a regulation governing the issuance of permits to commercial haulers and contractors who deliver inert solid waste to the East Richmond Road Landfill for disposal. Such regulation shall include, at a minimum, the following elements:

(1) Permit holders shall display a permit issued pursuant to this section on their vehicles in order to use the East Richmond Road Landfill.

(2) Permit holders shall renew their permits annually at a time prescribed by the Director of Public Works.

(3) Each applicant for a new permit or for annual renewal of a permit shall pay a permit fee of $100.00.

(c) *Handling fee.* In addition to possessing a valid permit issued pursuant to this section, permit holders shall pay a fee known as the inert material handling fee in the amount of $15.00 for each ton or portion of ton of inert solid waste disposed of at the East Richmond Road Landfill. The Director of Public Works shall establish a regulation governing the method by which the total fees owed by each permit holder are to be calculated and the method by which the City will bill permit holders for the fees owed.

(Code 2004, § 86-11; Code 2015, § 23-11; Ord. No. 2009-55-78, §§ 1, 2, 5-26-2009; Ord. No. 2010-35-41, § 1, 2-22-2010)

Secs. 23-12—23-40. Reserved.

ARTICLE II. COLLECTIONS BY CITY*

***Charter reference**—Authority to collect and dispose of garbage, § 2.03(c).

State law reference—Authority to operate a garbage and refuse collection and disposal service, Code of Virginia, §§ 15.2-

901, 15.2-927, 15.2-928, 15.2-937; Virginia Waste Management Act, Code of Virginia, § 10.1-1400 et seq.

Sec. 23-41. Responsibility.

Subject to the conditions and limitations of this chapter and other applicable regulations, the City or its agent shall be responsible for the collection of refuse within the City limits, through the action of the Department of Public Works, as ordered by the Director of Public Works.

(Code 1993, § 31-20; Code 2004, § 86-41; Code 2015, § 23-41)

Cross reference—General functions of Department of Public Works, § 2-425 et seq.

Sec. 23-42. Charges for transfer of solid waste and recycling by City; exemptions.

(a) A fee for the transfer of solid waste to the landfill in the amount of $21.45 per month shall be charged against all water customers of the City, with the exception of City, Richmond Redevelopment and Housing Authority, State, and Federal customers, but including the Federal Reserve Bank, and with the further exception of any Chesterfield County and Henrico County customers and any other water customers outside the territorial City limits. With the exception of the Richmond Redevelopment and Housing Authority, any water customer of the City with a building containing up to four dwelling units or multiple commercial establishments shall be charged a solid waste transfer fee of $21.45 per month for each such dwelling unit or commercial establishment if the customer receives City refuse collection services. For buildings containing more than four dwelling units, the solid waste fee shall be $21.45 per supercan per month if the customer receives City refuse collection services. It shall be included as a part of the monthly water bill. Water service may be disconnected for nonpayment of landfill refuse fees, in accordance with the procedures governing disconnection for nonpayment of water service charges. The landfill refuse fee shall be billed each month. However, if the billing period for water service is less than 15 days, such charge shall be prorated by dividing the landfill refuse fee by 30 days, times the number of days of water service for that month. For months of service of less than five days, the landfill refuse fee shall not be billed.

(b) A fee for recycling activities in the amount of $2.99 per month shall be charged against all residential water customers of the City, with the exception of the Richmond Redevelopment and Housing Authority, who are located within the municipal City limits. Any residential water customer of the City with a building eligible for curbside recycle service containing multiple dwelling units shall be charged a recycle fee of $2.99 for each such dwelling unit. Such recycle fee shall be included as a part of the monthly water bill.

(c) The landfill and recycling fees imposed under this section shall not apply to any elderly or disabled person who has qualified for tax relief under Section 26-364 or 26-365.

(d) Exemption from the landfill and recycling fees shall also be granted, upon proper application to the Director of Finance, to any elderly or disabled person who otherwise meets the eligibility standards for tax relief under Section 26-363 or 26-364, in cases in which:

(1) The individual became an eligible property owner after the deadlines set for qualification for tax relief; or

(2) The individual, though eligible, failed to apply for tax relief within the time limit set under such sections.

An application for exemption from the landfill and recycling fees shall be received by the Director of Finance at any time during the year in which the exemption is first claimed. Qualification for tax relief in accordance with the procedures set forth in Section 26-364 or 26-365 shall confer continuing exemption from the landfill and recycling fees in succeeding years.

(e) Exemption from the landfill and recycling fees shall also be granted, upon proper application to the Director of Finance, to any elderly or disabled renter who satisfies the adjusted gross income and adjusted net worth criteria established for purposes of granting tax relief to elderly or disabled property owners under Section 26-363 or 26-364, provided that:

(1) The individual must have entered into a bona fide lease of at least 12 months' duration;

(2) The leased unit must be the individual's sole residence;

(3) The leased unit must have a current certificate of occupancy issued by the City; and

(4) The water services account for the leased unit must be listed in the individual's name for utility billing purposes, and the water meter must serve only the individual's residence.

An application for exemption from the landfill and recycling fees shall be received by the Director of Finance at any time during the year in which the exemption is first claimed. Individuals granted exemptions must recertify their eligibility by March 15 of each succeeding year. Any exemption granted shall not be transferable to subsequent tenants of the leased unit or other subsequent water service users at the particular address. The exemption shall immediately become void if the individual to whom the exemption was granted no longer resides at the leased unit listed on the application for exemption or if the individual, in any other respect, no longer satisfies the conditions upon which the exemption was granted.

(Code 1993, § 31-21; Code 2004, § 86-42; Code 2015, § 23-42; Ord. No. 2004-96-125, § 1, 5-24-2004; Ord. No. 2005-95-103, § 1, 5-31-2005; Ord. No. 2006-79-147, § 1, 5-30-2006; Ord. No. 2009-56-79, § 1, 5-26-2009; Ord. No. 2013-57-89, § 1, 5-28-2013; Ord. No. 2016-051, § 1, 5-13-2016; Ord. No. 2016-067, § 1, 5-13-2016; Ord. No. 2017-058, § 1, 5-15-2017; Ord. No. 2019-072, § 1, 5-13-2019)

Sec. 23-43. Residential service generally; collection on private property restricted.

(a) The City or its designated agent shall use its personnel and equipment to collect refuse from residential property on a regular schedule to be set by the Director of Public Works. The residential program shall undertake the regular curbside collection of household waste, bulk items, yard waste and tree and shrub trimmings.

(b) City forces will not enter private property for the purpose of collecting refuse unless:

(1) The Director of Public Works considers it to be to the advantage of the City to have City vehicles enter the private property, in which case the Director will require a legal release from liability or responsibility in writing to be obtained from the owner of the property prior to entry; or

(2) The Director of Public Works considers that the property and accesses thereto are large enough not to impede or delay the movement of City vehicles.

(Code 1993, § 31-22; Code 2004, § 86-43; Code 2015, § 23-43; Ord. No. 2018-027, § 1, 2-26-2018)

Sec. 23-44. Times and places of collection; bulk items; brush collection; collection of loose leaves.

(a) Refuse receptacles, recycling bins, and bulk items shall be placed for collection at a location designated by the Director of Public Works. Refuse receptacles, recycling bins, and bulk items must be placed out for collection by 6:00 a.m. of the scheduled collection day but not earlier than 4:00 p.m. of the day preceding, except for any special times as deemed necessary by the Director of Public Works. The refuse receptacles and recycling bins must be removed by 7:00 a.m. on the day following collection from City property or right-of-way to include, but not be limited to, sidewalks, alleys and median strips between sidewalks and roadways. The public utility account holder of any property to which a refuse receptacle or recycling bin has been assigned shall be responsible for removing the refuse receptacle or recycling bin from City property or right-of-way by 7:00 a.m. on the day following collection. The account holder may request permission from the Director of Public Works not to remove the refuse receptacle or recycling bin as required by the preceding sentence. The Director of Public Works shall grant such permission when the Director determines that doing so will not interfere with use of the City property or right-of-way and that there is no place outdoors other than City property or right-of-way where the account holder may store the refuse receptacle or recycling bin that is accessible without the need for the account holder to convey the refuse receptacle or recycling bin indoors. The Director of Public Works may rescind such permission at any time. Otherwise, any account holder who allows a refuse receptacle or recycling bin to remain on City property after 7:00 a.m. on the day following collection shall receive a notice from the Department of Public Works advising of the violation and allowing the account holder until 7:00 a.m. on the day following the delivery of the notice to remove the refuse receptacle or recycling bin. If after receiving two such notices in the same calendar year, the account holder fails to remove any refuse receptacle or recycling bin from City property or right-of-way by 7:00 a.m. on the day following collection, the Department of Public Works, after providing the account holder notice and an opportunity to remove any refuse receptacles or recycling bins in accordance with the preceding sentence, shall cause to be imposed on the account holder a civil penalty in the amount of $50.00. Such civil penalty shall be included on the account holder's monthly utility statement and shall be subject to collection in the same manner as other utility charges including delinquent charges for utilities.

(b) The Director of Public Works shall establish a schedule for the collection of bulk items at no charge. However, upon a request for same-day collection of bulk items, a fee of $100.00 shall be charged. A fee of $50.00 shall be charged for the collection of appliances.

(c) Collection of tree trimmings less than four inches in diameter, six feet in length; shrubbery trimmings; and brush shall be undertaken in accordance with a schedule established by the Director of Public Works.

(d) Collection of leaves shall be undertaken in accordance with a schedule and procedures established by the Director of Public Works. A fee of $30.00 shall be charged for the collection of loose leaves outside the established collection period, per collection.

(e) If the Director of Public Works finds that refuse quantities or location, building design or other factors are not compatible for refuse collection by City forces and equipment, the refuse shall be removed by private or contract collectors. The Director of Public Works shall give adequate notice of such noncollectibility or noncompliance, so that other collection arrangements may be made.

(f) Fees for collection may only be waived during City-designated cleanups or declared emergencies.

(g) Real property owners or their agents who file for eviction proceedings with the City Sheriff shall remove all property or items which are placed outside during an eviction within 72 hours of the eviction. Notwithstanding the collection fee provided for in subsection (b) of this section, if the evicted tenant, building owner or the owner's agent fails to immediately remove the property or items after the 72-hour time period has elapsed, the City will cause the immediate removal and assess the building owner a $250.00 removal fee.

(Code 1993, § 31-23; Code 2004, § 86-44; Code 2015, § 23-44; Ord. No. 2007-230-275, § 1, 11-26-2007; Ord. No. 2017-090, § 1, 5-15-2017; Ord. No. 2017-175, § 1, 10-9-2017; Ord. No. 2018-027, § 1, 2-26-2018; Ord. No. 2018-227, § 1, 9-24-2018)

Sec. 23-45. Collection at point other than curb or alley for elderly and disabled persons.

If there is no person between the ages of 15 years and 70 years at any residence or if there is no person between such ages physically or mentally capable of placing refuse receptacles at the curb or alley, the City shall provide collection service from a point approved by the Director of Public Works. The Director may require, at least once every two years, evidence of such physical or mental disability. A certificate by a physician licensed to practice in the State shall be considered as sufficient proof of disability.

(Code 1993, § 31-24; Code 2004, § 86-45; Code 2015, § 23-45)

Sec. 23-46. Limitations on amounts of refuse per collection; commercial establishments; multifamily properties.

(a) When refuse from commercial establishments exceeds four supercans per collection, the operator of such business is required to remove and dispose of such excess at the expense of the operator.

(b) When refuse from multifamily properties, exclusive of properties owned and operated by a re-development and housing authority organized pursuant to Housing Authorities Law (Code of Virginia, § 36-1 et seq.), exceeds four supercans per collection, the owner or the managing agent designated for such property shall be required to remove and dispose of any and all excess at the owner's or agent's expense, except where such owner or managing agent has made prior contractual arrangements for payment of the cost for collection of excess refuse by the City. Such contractual arrangements shall be upon reasonable terms and conditions as may be determined by the Director of Public Works and shall specifically provide for a monthly charge of $10.00 per 90 gallons or 95 gallons (per supercan) or any portion thereof collected over and above the limit of four supercans per collection and shall further provide for the payment of a security deposit in the total amount of $300.00 by each owner or managing agent as a precondition to City collection of such excess refuse. Any security deposit paid under this subsection and any funds previously paid as a security deposit for City collection of excess refuse shall be deposited into the general fund of the City. Upon termination of contractual arrangements for City collection of excess refuse, any amount due and owing the City shall be deducted from the amount of the security deposit, and the remainder shall be refunded to the contracting party.

(Code 1993, § 31-25; Code 2004, § 86-46; Code 2015, § 23-46)

Sec. 23-47. Collection of hazardous wastes or building or demolition materials.

(a) No hazardous wastes or building or demolition materials shall be collected by the City, unless so authorized under this section.

(b) The Department of Public Works may establish a household hazardous waste service to provide residents with collection points for certain household hazardous waste as designated by the Department and in compliance with the Virginia Waste Management Act (Code of Virginia, § 10.1-1400 et seq.).

(Code 1993, § 31-26; Code 2004, § 86-47; Code 2015, § 23-47; Ord. No. 2005-144-121, § 1, 6-13-2005)

Cross reference—Buildings and building regulations, Ch. 5.

Sec. 23-48. Disposal of building refuse and debris from construction, alteration or demolition operations.

(a) The City shall not be responsible for the collection or hauling of building materials originating from private property preliminary to, during or subsequent to the construction of new buildings or alterations or additions to existing buildings of whatever type or from demolition of existing structures. Such material shall be removed by the owner of the property or by the contractor. No inspection certificate or certificate of occupancy shall be issued until such material has been removed by the owner or contractor. In addition, all contractors must provide refuse receptacles for construction debris and litter to be deposited in at the end of each working day.

(b) Dirt, mud, construction materials and other debris deposited upon any public or private property as a result of construction or demolition operations shall be immediately removed by the contractor. Construction sites shall be kept clean and orderly at all times.

(c) The prime contractor or developer of a construction or demolition site shall be held responsible for maintaining the site as required by this section.

(Code 1993, § 31-27; Code 2004, § 86-48; Code 2015, § 23-48)

Sec. 23-49. Collection, removal and disposal of industrial waste.

It shall be the responsibility of the owner or operator of an industry, factory, plant or enterprise creating or causing industrial waste to collect, store, protect, remove and cause to be disposed of in an approved manner all such waste. Industrial waste will not be collected or disposed of by City forces.

(Code 1993, § 31-28; Code 2004, § 86-49; Code 2015, § 23-49)

Secs. 23-50—23-71. Reserved.

ARTICLE III. RECEPTACLES

Sec. 23-72. Standards generally.

(a) All refuse to be collected by the City shall be limited to containers approved by the Director of Public Works or to bulk or brush items.

(b) Refuse receptacles must be City-provided 90-gallon or 95-gallon mobile containers which weigh no more than 180 pounds when filled and placed for collection. Bagged refuse and boxes will be collected as part of the weekly collection.

(c) Any refuse container provided by the City that becomes lost or stolen shall be replaced by the City, provided a report is filed with the Director of Public Works. Containers that are damaged through normal usage shall be repaired or replaced by the City based upon the availability of funds. Containers that are damaged through no fault of the City will be replaced by the City for a fee of $55.00 and shall be paid for by the owner of the premises to which the container is assigned, unless such damage is a result of lightning or other severe weather conditions. When an additional refuse container is provided by the City at the expense of the owner of the premises, a charge of $55.00 shall be made for each such container. The City shall not be responsible for the repair or replacement of a purchased container.

(d) Containers (supercans) provided by the City shall be for use by the owner of the premises for storage of refuse and may not be removed by the owner or others for personal use. Containers discovered to be used for other purposes may be reclaimed by the City.

(Code 1993, § 31-30; Code 2004, § 86-81; Code 2015, § 23-72)

Sec. 23-73. Use of public receptacles by commercial establishments.

It shall be unlawful for any person operating any commercial establishment or for any employee, servant or agent of any such person to place or deposit refuse, rubbish or waste material, accumulated in or emanating from such commercial establishment, in any trash basket or refuse receptacle maintained by the City upon any public street or sidewalk.

(Code 1993, § 31-31; Code 2004, § 86-82; Code 2015, § 23-73)

Sec. 23-74. Placing refuse or refuse receptacles on, in or over storm drains.

No person shall place any refuse or refuse receptacle or container on, in or over any storm drain.

(Code 1993, § 31-32; Code 2004, § 86-83; Code 2015, § 23-74)

Sec. 23-75. Interference with or damaging receptacles.

No person, other than employees of the City or its agent charged with such duty, shall interfere with the contents of any refuse or recycling receptacle set out for removal by the City or any private collection agency, unless authorized by the Director of Public Works. It shall be unlawful for any person to damage or destroy any refuse or recycling receptacle placed at the curbline for collection.

(Code 1993, § 31-33; Code 2004, § 86-84; Code 2015, § 23-75)

Sec. 23-76. Refuse receptacles for parking lots.

The owner or manager of any parking lot or establishment with a parking lot shall provide refuse receptacles distributed within the parking area. The Department of Public Works shall have the authority to determine the number of receptacles necessary to provide proper containerization. It shall be the responsibility of the owner or manager of the parking lot to maintain such receptacles and place them in an approved location for collection by the City or, for bulk containers, by a private contractor.

(Code 1993, § 31-34; Code 2004, § 86-85; Code 2015, § 23-76)

Secs. 23-77—23-95. Reserved.

ARTICLE IV. TRANSFER STATION REFUSE DISPOSAL

Sec. 23-96. Availability of sanitary transfer station.

City-operated sanitary transfer stations shall be available to persons engaged in the disposal of refuse during such hours and upon such conditions as the Director may direct.

(Code 1993, § 31-40; Code 2004, § 86-116; Code 2015, § 23-96)

Sec. 23-97. Weighing of vehicle containing refuse; fees.

(a) Except as otherwise provided in this section, it shall be unlawful for any person or the State, its political subdivisions or agencies, or the United States government to dispose of refuse at the City transfer stations before weighing the vehicle containing the refuse. The fees for the use of a City transfer station shall be as follows:

For residents for household refuse up to 2,000 pounds, per load	$0.00
For residents for household refuse over 2,000 pounds, per load	$6.00
For nonresidents for household refuse up to 2,000 pounds, per load	$6.00

(b) Any City resident hauling refuse, specifically excluding yard waste, up to an estimated maximum of 2,000 pounds (one ton) generated at such person's own residence located within the City shall not be required to weigh the refuse disposed of and shall not be charged a fee for disposal of such refuse.

(c) City residents hauling from their own residences; nonprofit organizations, so designated by the Internal Revenue Service for income tax purposes, located within the City limits; or a civic association, whether incorporated

or unincorporated, and comprised entirely of property owners within the corporate City limits and specifically within the geographical area making up such association and which collects leaves, grass clippings, brush and tree trimmings solely for the members of such association, may dispose of such leaves, brush and tree trimmings at a City-designated location and shall not be required to weigh the refuse disposed of or to pay the fee.

(d) A civic association, whether incorporated or unincorporated, and comprised entirely of property owners within the corporate City limits and specifically within the geographical area making up such association and which collects leaves, brush and tree trimmings solely for the members of such association, may dispose of such leaves, brush and tree trimmings at a City-operated transfer station and shall not be required to weigh the refuse disposed of or to pay the fee.

(Code 1993, § 31-41; Code 2004, § 86-117; Code 2015, § 23-97; Ord. No. 2016-113, §§ 1, 2, 4-25-2016)

Sec. 23-98. Disposal of tires.

Passenger car tires that have been removed from the rim, in lots of five or more, may, with the approval of the Director, be disposed of at a transfer station at a charge of $1.00 per passenger tire. The Director may authorize the disposal of tires, other than passenger car tires, at a charge of $5.00 per tire.

(Code 1993, § 31-43; Code 2004, § 86-118; Code 2015, § 23-98)

Chapter 24

STREETS, SIDEWALKS AND PUBLIC WAYS*

***Charter reference—**General powers relative to streets and sidewalks, § 2.03.

Cross reference—Any ordinance authorizing, providing for, or otherwise relating to any public improvement or any special assessment saved from repeal, § 1-4(4); any ordinance or resolution pertaining to traffic regulations on specific streets saved from repeal, § 1-4(13); exposing food for sale on street, § 6-241; placing food above street for display or storage, § 6-242; peddlers, § 6-418 et seq.; sidewalk vendors, § 6-453 et seq.; acceptance of dedications of real estate for construction, reconstruction and maintenance of streets and alleys, § 8-32; use of streets or sidewalks by vendors, § 8-435; throwing trash, litter or debris into canals or upon sidewalks or open areas, § 8-482; street obstructions, § 13-62; floodplain management, erosion and sediment control, and drainage, Ch. 14; expectorating in public places, § 19-1; possession of open alcoholic beverage containers in public parks, playgrounds and streets, § 19-3; drinking alcoholic beverages or offering to another in public places, § 19-4; dumping trash, garbage, refuse, litter or other matter on highway, right-of-way or private property, § 19-82; design standards for streets and alleys in subdivisions, § 25-73 et seq.; grading and surfacing of streets and alleys in subdivisions, § 25-254; traffic and vehicles, Ch. 27; utilities, Ch. 28; vehicles for hire, Ch. 29; zoning, Ch. 30.

State law reference—Streets and alleys, Code of Virginia, § 15.2-2000 et seq.

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

The following words, terms and phrases, when used in this chapter and elsewhere throughout this Code, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Encroachment means any portion of a public street right-of-way, including areas below, on or above the surface, that is authorized under this chapter or taken without such authorization for use by an individual or concern and altered for a particular benefit. Encroachments shall include, but not be limited to, sidewalk crossings, in the form of driveways and carriage walks, areaways, coal chutes, loading doors, skylights, vents, oil fillers, utility service vaults, walls, signage, and awnings.

Public way means any public street or other public right-of-way of whatever nature in the City, whether or not actually or physically opened to public use and travel.

Sidewalk means any paved improvements, made for the specific use of pedestrians, in the area of public street right-of-way located between the curbline, or the lateral lines of a roadway where there is no curb, parallel to the street curb or lateral lines, and the adjacent property line.

Street includes avenues, boulevards, highways, roads, alleys, courts, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the City and means the entire width thereof between abutting property lines. The term shall be construed to include a sidewalk or footpath.

(Code 1993, § 25-1; Code 2004, § 90-1; Code 2015, § 24-1)

Cross reference—Definitions generally, § 1-2.

Sec. 24-2. Design and construction standards.

The Director shall establish and, from time to time, modify a manual entitled "Right-of-Way Design and Construction Standards Manual" consisting of general and specific right-of-way design and construction standards that the Director of Public Works shall enforce for all design and construction that occurs in streets, sidewalks and public ways as defined in Section 24-1 and in public rights-of-way as defined in Section 24-400. Such standards shall be consistent with all applicable Federal, State and local laws and with sound engineering practices and shall reflect the intent of the City that all transportation improvement projects in the City be planned for, designed and constructed to provide appropriate accommodation for persons of all ages and abilities, including pedestrians, bicyclists, transit passengers, and motorists, while promoting safe operation for all users. The Director shall:

(1) Make the manual available for inspection in the Director's offices;

(2) Publish the manual in a form for sale to the public; and

(3) To the maximum extent practicable, make the manual available electronically and through the Internet.

(Code 2004, § 90-2; Code 2015, § 24-2; Ord. No. 2005-205-173, § 2, 7-25-2005; Ord. No. 2014-171-164, § 1(90-2), 10-13-2014)

Sec. 24-3. Installation of certain signs at street and sidewalk construction projects.

(a) *Applicability.* This section applies to signs erected, placed or maintained by City officers, employees, agents or contractors at the site of construction performed by City officers, employees, agents or contractors that occurs in streets, sidewalks and public ways as defined in Section 24-1 and in public rights-of-way as defined in Section 24-400. For purposes of this section, such construction is referred to as a "covered construction project," and the word "sign" refers to a sign associated with a covered construction project that contains information not required to properly direct traffic around or restrict access to the site of the covered construction project.

(b) *Contents.* Every sign erected, placed or maintained at the site of a covered construction project shall state that the project is a project performed by the City of Richmond. The sign may identify the name of the City department responsible for the covered construction project and may include contact information for that department. However, no sign shall state the name of any City officer or employee.

(c) *Placement and removal.* Any sign shall be placed at or near the site of the covered construction project. Any sign shall be removed within 30 days after the final completion of the covered construction project with which the sign is associated.

(d) *Violation.* Every person that installs or orders the installation of a sign associated with a covered construction project that violates the requirements or prohibitions, or both, imposed by this section shall pay a civil penalty of $100.00. Each sign installed or ordered to be installed in violation of the requirements or prohibitions, or both, imposed by this section shall constitute a separate violation.

(Code 2004, § 90-3; Code 2015, § 24-3; Ord. No. 2010-190-2011-118, § 1, 6-13-2011)

Sec. 24-4. Report required on the condition of all streets in the City.

The Department of Public Works shall produce a report of the condition of all streets in the City and provide such report to City Council by no later than February 1, 2020, and by no later than February 1 each year thereafter. The report on the condition of all streets in the City shall include the following:

(1) An assessment of the condition of the City's streets in comparison with State and national standards. The Department of Public Works may use the latest assessment to provide this data based on an assessment being conducted every three years.

(2) An assessment of the adequacy of the City's streets to handle the current and projected volume of traffic in comparison with State and national standards.

(3) A prioritized list of paving needs and repairs and the projected costs thereof arranged by Council District.

(4) An estimate of the cost of remediation for any identified deficiencies.

(5) A plan of action for addressing such deficiencies including estimates of funding required from City, State, Federal, and other sources, and recommendations for policy changes as appropriate.

(Code 2015, § 24-4; Ord. No. 2018-289, § 1, 7-22-2019)

Secs. 24-5—24-24. Reserved.

ARTICLE II. USE OF STREETS, SIDEWALKS AND PUBLIC WAYS*

***State law reference—**Obstructions and encroachments, Code of Virginia, § 15.2-2009 et seq.

DIVISION 1. GENERALLY

Sec. 24-25. Unauthorized encroachments and uses.

(a) Any unauthorized encroachment or other unauthorized use of a street, sidewalk or public way, including areas below, on or above the surface, shall be unlawful and shall constitute a nuisance and may be abated in any manner provided by law. Every person violating this section shall, upon conviction, be punished as provided in

Section 1-16.

(b) The existence of particular types of encroachments in the public right-of-way and having a particular and obvious relationship to an abutting property, including, but not limited to, sidewalk crossings and carriage walks, retaining walls, signage, and areaways of all types, shall constitute prima facie evidence of its ownership by that abutting property owner.

(Code 1993, § 25-11; Code 2004, § 90-31; Code 2015, § 24-25)

Sec. 24-26. Failure to remove encroachment or cease other uses upon notice of revocation of authorization.

Failure to remove an encroachment for which authorization has previously been granted or to cease other previously authorized uses of streets, sidewalks and public ways, including areas below, on or above the surface, upon receipt of reasonable notice that authorization for the encroachment or other use has terminated or been revoked, shall be unlawful. Such encroachment or other use shall constitute a nuisance and may be abated in any manner provided by law. Every person violating this section shall, upon conviction, be punished as provided in Section 1-16.

(Code 1993, § 25-12; Code 2004, § 90-32; Code 2015, § 24-26)

Sec. 24-27. Abatement of unauthorized encroachments and uses; collection of abatement costs.

Any unauthorized encroachment or other unauthorized use of a street, sidewalk or public way, including areas below, on or above the surface, shall be abated by the removal of the encroachment or discontinuance of the use by the owner or other person responsible for or benefited by the unauthorized encroachment or use, upon receipt of reasonable notice to do so. If the unauthorized encroachment or use is not abated after such reasonable notice, the Chief Administrative Officer shall make appropriate arrangements for abatement without liability for damages therefor. The costs incurred by the City in connection with abatement may be assessed against the owner or any other person responsible for or benefited by the unauthorized encroachment or use, and such costs, if assessed, shall be collected in the same manner as City taxes.

(Code 1993, § 25-13; Code 2004, § 90-33; Code 2015, § 24-27; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 24-28. Assessment of charge for unauthorized encroachment or other unauthorized use.

In addition to any criminal penalties and other assessment of costs provided for unauthorized encroachments and other unauthorized uses of a street, sidewalk or public way, the owner or any other person responsible for or benefited by the unauthorized encroachment or use may be charged an amount representing compensation to the City for the use of any portion of a street, sidewalk or other public way. The amount of such charge shall be the equivalent of the real estate tax that would be charged upon the land occupied by the encroachment or other use, if the land were held in private ownership. Such charge, if assessed, shall be collected in the same manner as City taxes.

(Code 1993, § 25-14; Code 2004, § 90-34; Code 2015, § 24-28)

Sec. 24-29. Installation of rainwater drains under sidewalks.

Any resident having property on the line of a street may run drains of good and sufficient pipe under the sidewalks for the purpose of emptying surplus rainwater into the gutters. Such work must be done at the expense of the owner or occupant and subject to the approval of the Director of Public Works.

(Code 1993, § 25-17; Code 2004, § 90-37; Code 2015, § 24-29)

Sec. 24-30. Protection of pavement from spilling or dripping oil or similar substances.

(a) No person shall pour or spill or permit to drop or flow upon or over any pavement laid on any street or sidewalk or public place in the City any kerosene, benzene or other oil or similar oily substance or liquid.

(b) All vehicles, wagons and tanks used for the delivery of the substances referred to in subsection (a) of this section shall be properly equipped with nondrip taps or faucets, securely attached thereto. In filling any measure or other vessel from such taps or faucets, such measure or other vessel must be held so that there shall be no drip or overflow from such measure or vessel. In removing the measure or other vessel from over any street, sidewalk or other public place, no drip or overflow from such measure or other vessel shall be permitted to fall upon such

pavement; and no receptacle for holding oil shall be placed on any street, sidewalk or public place.

(Code 1993, § 25-18; Code 2004, § 90-38; Code 2015, § 24-30)

Sec. 24-31. Throwing or depositing hazardous or injurious materials.

(a) No person shall throw or deposit or cause to be thrown or deposited upon any street, sidewalk or public way any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal or damage any vehicle. No person shall throw or deposit or cause to be thrown or deposited upon any street, sidewalk or public way any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public.

(b) Any person who drops or throws or permits to be dropped or thrown upon any street, sidewalk or public way any 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 street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(c) Any person violating this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 25-19; Code 2004, § 90-39; Code 2015, § 24-31)

Cross reference—Environment, Ch. 11.

Sec. 24-32. Construction and maintenance of railroad trestles, bridges, grade crossings and spur crossings of public ways.

(a) It shall be the duty of every railroad company to maintain and keep in good repair all bridges, trestles, grade crossings, spur tracks, or viaducts designed to carry public traffic and travel over the right-of-way or tracks of such railroad or designed to carry the tracks of such railroad over the streets, alleys or other public places of the City in such a manner as shall be satisfactory to the Director of Public Works. However, this section shall not be construed to require the maintenance by railroad companies of bridges or viaducts owned by persons other than the City where such bridges or viaducts are located over the tracks of such railroad companies.

(b) It shall be the duty of the City Attorney, when notified by the Director of Public Works that any bridge, viaduct, or crossing is, in the Director's judgment, in such condition as probable to endanger the public safety, to institute and prosecute appropriate proceedings to require the railroad company or person operating such railroad whose right-of-way is crossed by such unsafe bridge or viaduct or whose unsafe bridge or viaduct crosses a City street or other public place to put or cause the bridge, viaduct, or crossing to be put in safe and proper condition for public travel and thereafter to maintain the bridge, viaduct, or crossing in such proper condition. If a railroad fails to respond in a timely manner to provide repair to a spur or grade crossing, the Director of Public Works may have the necessary repairs performed in order to correct an unsafe condition. All costs associated with such repairs shall be borne by the owner of the railroad.

(c) In addition to the duty imposed upon the City Attorney by this section, it is hereby provided that any such railroad company or person operating such railroad who shall fail, from and after ten days' written notice by the City Attorney, to proceed with the work necessary to put such bridge or viaduct in safe and proper condition and continue to prosecute the work to the satisfaction of the Director of Public Works shall be punished as provided in Section 1-16.

(Code 1993, § 25-20; Code 2004, § 90-40; Code 2015, § 24-32)

Sec. 24-33. Permission required to move buildings through streets.

It shall be unlawful for any person to move or draw through or upon a street within the City any house, barn, shop or other building, without the permission of the Director of Public Works. The Director may impose any reasonable conditions as may be warranted, including requirements for insurance and bonding.

(Code 1993, § 25-21; Code 2004, § 90-41; Code 2015, § 24-33)

Cross reference—Buildings and building regulations, Ch. 5.

Sec. 24-34. Duty to remove snow from paved sidewalks.

(a) It shall be the duty of every occupant of any land or premises abutting upon any paved sidewalk and the duty of the owner of any unoccupied land or premises abutting upon any paved sidewalk to remove and clear away

or cause to be removed and cleared away the snow from the paved sidewalk abutting such land or premises, in such manner as not to obstruct the passage of water in the gutters, within six hours after the snow ceases to fall. If snow ceases to fall during the night, removal of snow from the sidewalk before 11:00 a.m. the following morning shall be deemed compliance with this section.

(b) Any person violating this section shall be guilty of a Class 4 misdemeanor and, in addition thereto, shall be responsible for the cost of abating the violation. Any abatement costs incurred by the City may be assessed against the owner or other responsible party and collected in the same manner as City taxes.

(c) The criminal penalties provided by this section shall not apply to any person who is physically disabled or who is age 65 years or older.

(Code 1993, § 25-23; Code 2004, § 90-42; Code 2015, § 24-34)

Sec. 24-35. House numbering.

(a) All houses, buildings or structures used or intended for use as living quarters or as a place for the conduct of business and having a door or entrance facing or abutting any street, alley or public place of the City shall have displayed above or near such door or entrance in legible, easily readable characters the proper house number. The Director of Planning and Development Review shall designate the proper numbers for all such houses, buildings or structures and shall have the power to change such numbers when in the Director's judgment such change is necessary to avoid or eliminate confusion with other numbers. It shall be the duty of the Director of Planning and Development Review to keep in the Office of the Department of Planning and Development Review a record of the proper house numbers and to furnish such numbers to any person requesting the numbers.

(b) It shall be the duty of any person erecting any such house, building or structure to ascertain from the Director of Planning and Development Review the proper house number and to display such number as provided in subsection (a) of this section. Any person owning, leasing, occupying or maintaining any such house, building or structure which has no number displayed thereon or displays an incorrect number, when so informed and notified by the Director of Planning and Development Review, shall put up a number or change the incorrect number so that the proper number will be displayed within 20 days after the receipt of such notice.

(Code 1993, § 25-24; Code 2004, § 90-43; Code 2015, § 24-35; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Cross reference—Buildings and building regulations, Ch. 5.

State law reference—House numbering, Code of Virginia, § 15.2-2024.

Secs. 24-36—24-58. Reserved.

DIVISION 2. PERMITTED USES OF STREETS, SIDEWALKS, AND PUBLIC WAYS AND GENERAL PERMIT REQUIREMENTS

Sec. 24-59. Authorization required for encroachments and uses.

No encroachment or other use of a street, sidewalk or public way, in a manner not otherwise permitted to the general public, shall be authorized without the consent of the Director of Public Works, the Director's designee or the City Council, except in accordance with this chapter.

(Code 1993, § 25-41; Code 2004, § 90-66; Code 2015, § 24-59; Ord. No. 2004-368-331, § 1, 12-13-2004)

Sec. 24-60. Existing encroachments, awnings, canopies, and areas below the surface of streets.

(a) The existence of encroachments in the public right-of-way and having a particular and obvious relationship to an abutting property, including, but not limited to, sidewalk crossings and carriage walk, retaining walls, signage, and areaways of all types, shall constitute prima facie evidence of its ownership by that abutting property. The abutting property owner or tenant or any concern granted franchise rights by the City is responsible for all maintenance and repair of the encroachment and the adjacent sections or areas of sidewalk or street pavements.

(b) Nothing contained in this chapter shall be construed to affect any lawful encroachment or the lawful use and occupancy of streets, sidewalks, or public ways by any existing encroachment, which has been lawfully permitted by or pursuant to the provisions of any ordinance or resolution of the Council or any other provision of

law. Every such encroachment, use, and occupancy of the streets is permitted to continue in accordance with the terms and conditions upon which it was originally authorized.

(Code 1993, § 25-42; Code 2004, § 90-67; Code 2015, § 24-60)

Sec. 24-61. Exceptions for public utility or public service corporations under grant of franchise rights by City.

Except as expressly provided to the contrary in this chapter, the sections of this chapter shall not apply to encroachments or use and occupancy of streets by public utility or public service corporations which have been granted franchise rights by lawful enactment of the Council.

(Code 1993, § 25-43; Code 2004, § 90-68; Code 2015, § 24-61)

Sec. 24-62. General conditions for application and issuance of permits for encroachment and use.

(a) Every encroachment or other use of a street, sidewalk or public way authorized by or pursuant to this article or which the City Council will be requested to authorize by particular consent shall be subject to the following terms and conditions, unless expressly provided otherwise:

(1) The person proposing such encroachment or other use shall file a written application for a permit to work in streets and alleys and an administrative encroachment approval as required. However, if the encroachment or other use may be authorized only with particular consent from the Council, the written request for a Council encroachment approval shall be submitted to the Department of Public Works, along with payment of the required fee under Section 24-63.

(2) The application or written request shall contain all information, plans and specifications required by the Director of Public Works in order to determine the nature and appropriateness of the encroachment or other use and to ensure compliance with the terms and conditions for issuance of a permit or encroachment authorization.

(3) The applicant shall also file an application for a permit to work in the streets and alleys which shall be accompanied by payment of the permit fee required in accordance with Section 24-63 or other applicable section. The fee shall not be refunded, in whole or in part, unless the Director of Public Works shall approve the refund for good cause shown.

(4) The applicant shall, on behalf of the applicant and the applicant's heirs, devisees, successors and assigns, agree:

a. To indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons or property growing out of or directly or indirectly resulting from the encroachment or other use for which a permit for encroachment or approval is sought and the construction, reconstruction, maintenance, repair, existence and removal or cessation thereof;

b. If any suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the applicant or any of the applicant's heirs, devisees, successors and assigns, on account thereof, the applicant and each such heir, devisee, successor and assign shall defend the City in the suit or proceeding without expense to the City; and

c. If a final judgment or decree is obtained against the City, either independently or jointly with the applicant or any of the applicant's heirs, devisees, successors and assigns, the applicant and each such heir, devisee, successor and assign shall pay the amount of the judgment or comply with the decree, bearing all costs and expenses of whatsoever nature attendant thereto, and shall hold the City harmless therefrom.

(5) Unless this requirement is waived by the Director of Public Works for good cause shown, the applicant shall furnish the City evidence of a liability insurance contract to indemnify, reimburse and hold the City harmless from all charges, damages or costs that the City may be required to pay or otherwise sustain by reason of the encroachment or other use for which a permit is sought and the construction, reconstruction, maintenance, repair, existence, and removal or cessation thereof. The contract of insurance shall:

a. Provide either commercial general liability insurance coverage in an amount of not less than

$1,000,000.00 combined single limit or equivalent homeowner's or renter's liability insurance coverage in an amount of not less than $300,000.00 combined single limit; and

b. Name the City as an additional insured.

The contract shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to 45 days (or 30 days for a homeowner's or renter's liability insurance contract) after written notice to that effect is received by the Director of Finance or a designee thereof on behalf of the City, provided that a shorter notice period may be accepted with the concurrence of the Director of Finance or a designee thereof. Approved insurance coverage shall be kept in full force and effect, without expense to the City, at all times during the period for which authorization is granted.

(6) The applicant shall require any contractor engaged to perform work or furnish materials with respect to the encroachment or other use to furnish a commercial general liability insurance contract or an endorsement to an existing insurance contract naming therein the City as an additional insured, which shall provide indemnities of not less than $1,000,000.00 combined coverage for bodily injuries and property damage resulting from the contractor's activities. Such insurance contract shall also provide for the payment of any final judgment that may be rendered against the City by reason of any person being injured or damaged in any way in person or property by the contractor's activities. The insurance contract shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to 45 days after written notice to that effect is received by the Director of Finance or a designee thereof on behalf of the City, provided that a shorter notice period may be accepted with the concurrence of the Director of Finance or a designee thereof. The applicant shall be responsible for providing the City evidence of the insurance contract for each contractor engaged for performance of work in any portion of the street, sidewalk or other public way.

(7) Unless this requirement is waived by the Director of Public Works for good cause shown, the applicant shall furnish the City a bond with corporate surety approved by the City Attorney, an irrevocable letter of credit or other type of financial guaranty, payable to the City and approved by the City Attorney. The bond, letter of credit or other guaranty shall be conditioned upon the removal of the encroachment or cessation of any other use for which a permit is sought, as applicable, and shall be further conditioned upon the restoration of the street, sidewalk or public way in accordance with standards established by the Director of Public Works. The guaranty shall be in a sufficient amount, to be determined by the Director of Public Works, as will enable the City to fully and properly restore the street, sidewalk or public way and to otherwise satisfy the requirements of this article, if the applicant fails to do so. The guaranty shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to 60 days after written notice to that effect is received by the Director of Public Works on behalf of the City, provided that a shorter notice period may be accepted with the concurrence of the City Attorney and the Directors of Public Works and Finance. The guaranty, if required, shall be kept in full force and effect, without expense to the City, at all times during the period for which authorization is granted.

(8) The granting of authorization for an encroachment or other use and the issuance of a permit in connection therewith shall not constitute an offer or grant of a franchise or other irrevocable license or right. Authorization for an encroachment or other use shall at all times be subject to revocation, and the terms and conditions on which it is granted shall also be subject to modification at any time. The Director of Public Works shall have authority to revoke a permit:

a. Upon a finding of noncompliance with the terms and conditions upon which the encroachment or other use was authorized;

b. Upon a finding of discontinuance or abandonment of the purpose for which the encroachment or other use was authorized; or

c. Upon a finding of a superseding public need for any portion of the street, sidewalk or other public way occupied by or otherwise affected by the encroachment or other use.

The Council may, for any reason, revoke any grant of authorization for an encroachment or other use.

(9) The rights conferred under any permit or approval process for an encroachment or other use may be

transferred or assigned, subject to the express written approval of the Department of Public Works. The person to whom the rights are transferred or assigned shall be responsible for compliance with all terms and conditions applicable to the permitted encroachment or other permitted use.

(10) Following termination or revocation of authorization for an encroachment or other use or revocation of a permit or authorization issued in connection therewith, the person to whom the permit is issued or such person's heirs, devisees, successors, and assigns shall be responsible for removing the encroachment or ceasing the particular use and restoring the street, sidewalk, and public way to a condition satisfactory to the Director of Public Works. The person to whom the permit is issued or such person's heirs, devisees, successors, and assigns shall also be responsible for restoration or replacement of any public utility damaged, disturbed, or destroyed as a result of or in the course of the removal of an encroachment or cessation of any other use.

(11) The work of construction, reconstruction, repair, maintenance, and removal of any wire, pipe, conduit, device, or any other encroachment authorized under this section shall not be commenced until a separate work permit has been issued by the Director of Public Works. The Director shall reserve the right to revoke the work permit if the work performed shall not in all respects conform to this article, all other sections of this Code and other provisions having the force of law and also any and all particular requirements imposed by the Director of Public Works or other City officers or employees, as applicable. A separate fee, in the amount provided under Section 24-63, shall be paid in connection with the issuance of any work permit.

(b) Except as expressly provided otherwise, the general terms and conditions for issuance of a permit in subsection (a) of this section shall apply in addition to any specific terms and conditions established under this article or other enactment of the Council granting authorization for an encroachment or other use of a street, sidewalk, or public way.

(c) The Director of Public Works shall have general authority to require that related, but distinct, encroachments or other uses be treated under separate permits.

(d) The Director of Public Works shall have general authority, subject to any limitations imposed under the Virginia Uniform Statewide Building Code (VUSBC), to deny any application for a permit or administrative encroachment, upon a determination that the encroachment or other use will materially or unreasonably interfere with the use of a street, sidewalk, or public way by the public; that the encroachment or other use will constitute a hazard to such use; or for other good cause pertaining to the public health, safety, welfare, and convenience.

(e) The Director of Public Works shall have general authority to impose additional requirements, where necessary to ensure the public health, safety, welfare, and convenience, as a precondition to the issuance of a permit under this section.

(Code 1993, § 25-44; Code 2004, § 90-69; Code 2015, § 24-62; Ord. No. 2005-49-122, § 1, 6-13-2005)

Sec. 24-63. Permit fees.

Each permit issued under this article is subject to the applicable fee set forth in this section. The fee for a permit for which the fee is not associated with another section of this article is as set forth in this section. The applicable fee must be paid at the time the application for the permit is submitted to the City.

Fees for permits for encroachments or other use of a street, sidewalk or public way issued in accordance with this article:	
Application and processing fee for a work-in-street permit	$75.00
Fees for sidewalk closures (barricades, ladders, scaffolding, fences, covered walkways, swinging stages, trash dumpsters and storage or stockpiling of materials):	
Per first 30 days per block	$50.00
After 30 days per week per block	$25.00
Fee for street or lane closure - arterial or collector or City center, per week per street or lane per	$30.00

block	
Fee for street or lane closure - residential, per week per street or lane per block	$15.00
Fee for driveways - residential per driveway	$50.00
Fee for driveways - commercial per driveway	$150.00
Fees for major and minor utility construction and street cuts:	
Per square foot for local road	$0.25
Per square foot for collector road	$0.50
Per square foot for arterial road	$1.00
Fee for sheeting and shoring per 100 linear feet	$100.00
Fee for dumpster per week	$40.00
Fees for cranes:	
Rubber tire crane per crane per day	$20.00
Track crane per crane per day	$50.00
Fee for man-lift per occurrence (30 day maximum)	$50.00
Fee for covered walkways per week per block	$20.00
Fee for construction entrance	$100.00
Fee for portable storage container per week	$40.00
Fee for construction trailer per trailer per month	$75.00
Fee for portable toilet	$25.00
Fees for steel plates:	
Local road per plate per week	$100.00
Collector road per plate per week	$200.00
Arterial road per plate per week	$300.00
Fee for test pits, borings, and cores, per hole, pit, or bore	$20.00

(Code 1993, § 25-45; Code 2004, § 90-70; Code 2015, § 24-63; Ord. No. 2018-334, §§ 1, 2, 1-28-2019)

Sec. 24-64. Assessor area taxes for use of streets.

(a) Every person who constructs, installs, or maintains a pipe, conduit, or wire above or below the street permitted by or pursuant to the provisions of any ordinance or resolution of the Council or of this Code shall pay to the City annually for such privilege an assessor area tax of $0.25 for each lineal foot of pipe, conduit, and wire so constructed, installed, or maintained. The tax shall be due and payable on January 1, and the tax shall be added to the taxes levied or assessed against the owner of such pipe, conduit, or wire and shall be collected as a part of the taxes due.

(b) Every person who maintains any other encroachment, whether permitted by this article or otherwise, shall pay to the City annually for such privilege an assessor area tax of $0.25 for each square foot of the public right-of-way occupied by such encroachment or other use. The tax shall be due and payable on January 1, and the tax shall be added to the taxes levied or assessed against the property benefitted by the encroachment or other use or against the owner of the encroachment and shall be collected as a part of the taxes due.

(Code 1993, § 25-46; Code 2004, § 90-71; Code 2015, § 24-64)

Sec. 24-65. Exception for State or political subdivisions.

Section 24-64 shall not apply to encroachments or use and occupancy of streets by the State or by political

subdivisions of the State which make annual payments to the City in lieu of taxes.

(Code 1993, § 25-47; Code 2004, § 90-72; Code 2015, § 24-65)

Sec. 24-66. Franchise or permit required for use of right-of-way for telecommunication equipment.

(a) No encroachment or other use of a street, sidewalk or other public right-of-way of the City for either overhead or underground wires or other equipment or facilities for uses related to telecommunication services shall be allowed without a franchise or other authorization granted by the Council consistent with Federal and State law. A franchise shall be required for the installation of equipment that includes any access line, as defined in Code of Virginia, § 56-468.1(A). An encroachment permit issued pursuant to Sections 24-62 through 24-64 shall be required for the installation of equipment that does not include access lines.

(b) For purposes of this section, the term "equipment" shall mean the poles, wires, ducts, conduits, subways, manholes, fixtures, appliances and appurtenances used to provide telecommunication services.

(Code 1993, § 25-48; Code 2004, § 90-73; Code 2015, § 24-66)

Secs. 24-67—24-90. Reserved.

DIVISION 3. PUBLIC RIGHTS-OF-WAY USE FEE FOR TELECOMMUNICATIONS SERVICES*

***State law reference—**Public rights-of-way use fee, Code of Virginia, § 56-468.1.

Sec. 24-91. Adopted; definitions.

(a) Notwithstanding any other provision of law, including the Charter, and in lieu of any other fee or charge for the use of the public rights-of-way, a public rights-of-way use fee is hereby imposed on the ultimate end user of each access line, as defined in Code of Virginia, § 56-468.1(A). Such public rights-of-way use fee shall be collected by each certificated provider of local exchange telephone service operating in the City, but not by providers of commercial mobile radio services.

(b) The terms used in this division shall have the same meanings ascribed to them in Code of Virginia, § 56-468.1.

(Code 1993, § 25-49; Code 2004, § 90-96; Code 2015, § 24-91)

Cross reference—Definitions generally, § 1-2.

Sec. 24-92. Collection; remittance.

Within two months after the end of each calendar quarter, each certificated provider of local exchange telephone service shall remit to the Finance Department the amount of public rights-of-way use fees it has billed to ultimate end users of the provider's services during such preceding quarter. Fees so collected by the certificated providers shall be deemed to be held in trust until remitted to the Finance Department. Such fees shall constitute a debt of the ultimate end user to the City until paid to such provider. If any ultimate end user refuses to pay the public rights-of-way use fee, the local exchange service provider shall furnish the name and address of each such ultimate end user on a quarterly basis along with the remittance of fees.

(Code 1993, § 25-50; Code 2004, § 90-97; Code 2015, § 24-92)

Sec. 24-93. Exclusions.

(a) Nothing in this division shall affect the type or amount of fees payable to providers of cable television services pursuant to any existing or future franchise, license or permit granted by this City.

(b) Nothing in this division shall either affect any amount payable by any provider of telecommunications services for the right to locate towers or other facilities on property of the City, other than within the public rights-of-way, or prohibit the City from entering into voluntary pole attachment, conduit occupancy or conduit construction agreements with any certified provider of telecommunications service.

(Code 1993, § 25-50.1; Code 2004, § 90-98; Code 2015, § 24-93)

Secs. 24-94—24-108. Reserved.

DIVISION 4. ENCROACHMENTS AND BUILDINGS*

***Cross reference—**Buildings and building regulations, Ch. 5.

Sec. 24-109. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative approval process means a process by which the City's administration has the authorization to review and authorize certain encroachments as provided in this article. The Director of Public Works shall promulgate, maintain and enforce an administrative directive that establishes the purpose, policy, and procedures for the required review and approval processes for encroachments in the public right-of-way. The administrative directive will implement the encroachment type guideline for review and approval spreadsheet that identifies review, approval, and other requirements for encroachment authorization requests. The Director, or the Director's designee, shall maintain the spreadsheet on file with the appropriate revisions and amendments.

Building encroachment means the wall of any building; a porch, portico, marquee, balcony or cornice attached to a building; or other building encroachment that the Director of Public Works accepts as a similar fixture or attachment. The term includes projections, as defined in the Virginia Uniform Statewide Building Code, constructed in accordance with the specifications and general building limitations delineated in such Code, including the following defined projections:

(1) *Awning* means a fixed, permanent or retractable fabric cover that is attached to the wall of a building and that usually projects over an entrance or window; and

(2) *Canopy* means an awning supported by stanchions which are anchored to the ground.

In no event shall the term "building encroachment" include a fence, gate, shed, outbuilding or other structure which can be readily and easily removed from the street without affecting the building.

Council approval process means a process for certain encroachments that requires the City Council's approval through an adopted ordinance.

Discouraged encroachment means an encroachment type the City administration discourages due to reasons applicable to excessive or undesirable use, encumbrances, hampering, or interference of the area within the right-of-way, or to reasons applicable to aesthetics, public safety, or the City's current practices, policies, or regulations.

Encroachment means any portion of public street right-of-way, including areas below, on or above the surface, that is authorized under this chapter or taken without such authorization for use by an individual or concern and altered for a particular benefit. Encroachments shall include, but not be limited to, sidewalk crossings, in the form of driveways and carriage walks, areaways, coal chutes, loading doors, skylights, vents, oil fillers, utility service vaults, walls, signage, and awnings.

Encroachment type guideline for review and approval spreadsheet means the spreadsheet that serves as the guideline for required reviews and approvals for various encroachments. The Director of Public Works or the Director's designee shall maintain, revise or amend this spreadsheet as deemed necessary.

Existing unauthorized encroachment means an unauthorized encroachment, which is an unlawful use of streets, sidewalks or public ways, including areas below, on, or above the surface, that constitutes a nuisance and may be abated in any manner provided for by law, for which the applicant is seeking an encroachment approval. In order for an unauthorized encroachment to be considered an existing unauthorized encroachment, the owner of the encroachment must first provide acceptable record evidence to illustrate that the encroachment has been established and constructed and remained in the same location and condition and size for a minimum of five years.

New unauthorized encroachment means an unauthorized encroachment, which is an unlawful use of streets, sidewalks or public ways, including areas below, on, or above the surface, that constitutes a nuisance and may be abated in any manner provided for by law, for which the applicant is seeking an encroachment approval where the owner of the encroachment is unable to provide acceptable record evidence to illustrate that the encroachment has been established or constructed and remained in the same location and as originally constructed or last modified for a minimum of five years, or an unauthorized encroachment that the City administration deems to have been established or constructed for less than five years.

Owner means the person who holds legal title to a building or the land upon which it is situated, either or both.

Proposed encroachment means a new encroachment that has not been constructed and is not encroaching within the public right-of-way at the time of the request for authorization is submitted.

Virginia Uniform Statewide Building Code means the current State regulation promulgated by the Virginia Board of Housing and Community Development and based on a nationally recognized model building code.

(Code 1993, § 25-51; Code 2004, § 90-121; Code 2015, § 24-115; Ord. No. 2004-368-331, § 1, 12-13-2004)

Cross reference—Definitions generally, § 1-2.

Sec. 24-110. Encroachments and encroachment categories generally; permit required.

(a) *Permit required.* Every person who desires to construct, install or maintain a building or other administrative encroachment in any street, sidewalk or other public way shall first obtain a permit to work in streets and alley and encroachment authorization, as required, in accordance with Section 24-62 and shall thereafter be authorized to use the street, sidewalk or other public way for the purpose specified. This grant of authorization for use of the street, sidewalk or other public way is subject to any and all applicable limitations, terms and conditions imposed or provided for under this article and to any other applicable provision having the force of law. In particular, this grant of authorization is subject to the provisions and conditions set forth in Section 2.04(e) of the Charter, as modified or supplemented by the provisions of the Virginia Uniform Statewide Building Code. No further work shall be performed under this grant of authorization after the permit for such work has been revoked or has otherwise ceased to be in force and effect.

(b) *General encroachment categories, descriptions, and approval requirements or attributes.* The Director of Public Works shall have the authority to modify, impose or recommend additional conditions as set forth in the encroachment type guideline for review and approval spreadsheet maintained by the Department of Public Works as provided in this article. General encroachment categories, processes, descriptions, and approval requirements or attributes are as follows:

(1) *Administrative approval process encroachments.*

a. This category of encroachment would require:

1. The submittal of an administrative approval process encroachment application and a final approval by the Director of Public Works, or the Director's designee; and

2. The review of committees or commissions as designated by the encroachment type guideline for review and approval spreadsheet.

b. The Director of Public Works may require the encroachment to be reviewed through the Council approval process where reviews by others, including the City Planning Commission, will be required. An encroachment cannot be approved through this process if the encroachment type does not satisfy the requirements of the Virginia Uniform Statewide Building Code.

1. *Underground encroachments.* The administrative approval process may provide approval for any underground encroachments that are not regulated by the Virginia Uniform Statewide Building Code. These administrative approval process encroachments will not require any commission or committee reviews or approvals, except as designated by the encroachment type guideline for review and approval spreadsheet.

2. *Awning and canopy encroachments.* The administrative approval process may authorize any awnings and canopies which conform to the general conditions set forth in this article and that satisfy the Virginia Uniform Statewide Building Code requirements, subject to the following conditions:

(i) Signage on any awning or canopy shall be subject to the applicable signage requirements set forth in Chapter 30, which pertains to zoning.

(ii) These awning and canopy encroachments will require a review and recommendation by the Urban Design Committee or the Commission of Architectural Review as designated by the encroachment type guideline for review and approval spreadsheet or as requested by the Director of Public Works. The Director of Public Works may require the

encroachment to be reviewed through the Council approval process, where a review by the City Planning Commission will also be required.

(2) *Council approval process encroachments.* This category of encroachment will require approval from the City Council and would include, but is not limited to, any encroachment item that is designated for the Council approval process by the encroachment type guideline for review and approval spreadsheet, is requested by the Director of Public Works to acquire Council approval, or is initiated by the applicant's written request to the Director of Public Works for an encroachment ordinance review or approval by the City Council due to the applicant's specified desire for a Council review or due to the applicant's disagreement with the Director of Public Works' final consideration and decision for an administrative encroachment approval request. An encroachment shall not be approved through this process if the encroachment type does not satisfy the requirements of the Virginia Uniform Statewide Building Code. These encroachments will require review by the Urban Design Committee or the Commission of Architectural Review and the City Planning Commission.

(Code 1993, § 25-52; Code 2004, § 90-122; Code 2015, § 24-116; Ord. No. 2004-368-331, § 1, 12-13-2004)

Sec. 24-111. Encroachment application and processing fees.

Unless otherwise provided by general law, an application and processing fee of $300.00 shall be paid by the applicant for each administrative approval encroachment application that is not a temporary administrative approval encroachment application for use of a sidewalk for outdoor dining purposes applied for by October 31, 2020. There is no charge for application and processing for each temporary administrative approval encroachment application for use of a sidewalk for outdoor dining purposes applied for by October 31, 2020. An application and processing fee of $1,000.00 shall be charged for each Council approval encroachment request. Such fee shall not be refunded, in whole or in part, unless the Director of Public Works shall approve the refund for good cause shown.

(Code 1993, § 25-54; Code 2004, § 90-123; Code 2015, § 24-117; Ord. No. 2020-187, § 1(24-117), 9-28-2020)

Secs. 24-112—24-124. Reserved.

DIVISION 5. PERMIT PROGRAM FOR PARKING OF SHARED MOBILITY DEVICES ON SIDEWALKS

Sec. 24-125. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means any person who files an application in accordance with this division.

Application means an initial application, any renewal application, and any reinstatement application filed in accordance with this division.

Director means the Director of Public Works or the designee thereof.

Permittee means any person who holds a permit issued in accordance with this division.

Shared mobility device means a vehicle, including a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or motorized skateboard or foot-scooter, (i) for which no docking station is provided and (ii) which is offered by the owner thereof for rent to the public for a fee. For purposes of this definition, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, and motorized skateboard or foot-scooter shall have the meaning set out for those terms in Code of Virginia, § 46.2-100.

Trip means each period of exclusive use of a shared mobility device by an individual.

(Code 2015, § 24-125; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-126. Administration of permit program for shared mobility devices.

The Director shall administer the permit process for which this division provides. The Director shall issue, enforce, and, from time to time, modify rules, regulations, or guidelines consistent with this division and other applicable law to carry out the requirements of this division. Such rules, regulations, and guidelines, and any and all modifications thereto, must be approved as to form by the City Attorney or the designee thereof prior to issuance.

(Code 2015, § 24-126; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-127. Permit requirement.

No person shall park a shared mobility device on any sidewalk within the City of Richmond unless such person has obtained or such shared mobility device is covered by a permit in accordance with this division. Any shared mobility device not parked pursuant to a permit issued in accordance with this division may be removed as an unattended motor vehicle as provided in subsection (b) of Section 27-330.

(Code 2015, § 24-127; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-128. Application; issuance and denial of permits.

(a) Any person may file an application on forms provided by the Director to obtain a permit or, as applicable, a renewal permit, or a reinstated permit for the parking of one or more shared mobility devices on sidewalks within the City of Richmond. The Director shall review all applications according to the provisions of this division and the rules, regulations, and guidelines issued in accordance the Section 24-126.

(b) Permits issued in accordance with this division shall be subject to the following general terms and conditions:

(1) The applicant shall demonstrate on such applicant's application that the applicant has met all of the requirements of this division.

(2) Each application to obtain, renew, or reinstate a permit shall be accompanied by payment of an application fee and the annual fee set forth below, except as may be provided otherwise in this division.

Application fee	$1,500.00
Annual fee:	
From one to 100 shared mobility devices	$20,000.00
From 101 to 200 shared mobility devices	$30,000.00
From 201 to 500 shared mobility devices	$45,000.00

(3) Each application to obtain or renew a permit shall, in accordance with the rules, regulations, and guidelines issued in accordance with Section 24-126, be accompanied by a certificate of insurance demonstrating evidence of commercial general liability insurance coverage of at least $3,000,000.00 for each occurrence and at least $5,000,000.00 in the aggregate, listing the City as an additional insured, and indicating that the City will receive at least 30 days' notice of cancellation or material modification of the policy.

(4) Each permit issued by the Director shall state the following:

a. The name of the permittee and the name, address, and phone number of the authorized representative of the permittee, if applicable.

b. The date and time period during which the permit shall be effective.

c. Specifications concerning the parking of the shared mobility device on City sidewalks, including, but not limited to, a requirement that the shared mobility device shall be parked in an upright position on City sidewalks so as not to create a hazard for or interfere with public use and travel.

d. A prohibition against the parking of the shared mobility device on shared-use paths, and in parks and athletic fields owned by the City. For purposes of this subparagraph, the term "shared-use path" shall have the meaning set out for that term in Code of Virginia, § 46.2-100.

e. A prohibition against the parking or leaning of the shared mobility device on park benches located on City-owned real estate.

f. A requirement that the permittee ensure that each user of shared mobility devices covered by a

permit issued in accordance with this division have a valid driver's license to the extent that a driver's license is required by law for operation of a shared mobility device.

g. Any other information, as permitted by law, that the Director deems necessary for the administration of the permit.

(5) Permits may be issued and renewed annually for a period of 12 months from the date of any such issuance, subject to the requirements of this division and the rules, regulations, and guidelines issued in accordance with Section 24-126. The Director shall not issue any more than one permit to the same person during all or any part of a 12-month period covered by a permit issued in accordance with this division.

(6) Permits shall incorporate by reference the provisions of this division and the rules, regulations, and guidelines issued in accordance with Section 24-126.

(7) No permit shall be issued to any person for more than 500 shared mobility devices, except as provided in Section 24-133. Any impounded shared mobility devices shall count against the total number of shared mobility devices that the permittee may have in operation under such permittee's permit.

(8) The permittee shall execute a release, waiver of liability, and indemnification agreement prior to the issuance of any permit. This subdivision (8) shall not apply to governmental organizations.

(9) Upon revocation or expiration of a permit, the permittee shall be responsible for ensuring that any and all shared mobility devices to which a permit relates are removed permanently from every sidewalk, unless another permit is obtained, and are otherwise stored in the manner provided in the rules, regulations, and guidelines issued in accordance with Section 24-126.

(10) The Director may deny a permit to any applicant upon determining that the applicant has not complied with any requirement of this division or the rules, regulations, or guidelines issued in accordance with Section 24-126.

(11) The Director may deny a permit to any applicant upon determining that the applicant has not complied with any applicable Federal, State, or local law or that the applicant is delinquent on any tax, fee, fine, or other obligation to the City.

(12) No permits shall be issued for any shared mobility device that is not equipped with a speed controller limiting the maximum motor-assisted speed of such device to no more than 15 miles per hour or that is not equipped with a global positioning system.

(13) Permits issued in accordance with this division may be transferred or assigned, subject to the express written approval of the Director. The person to whom any permit is transferred or assigned shall be responsible for compliance with all terms and conditions applicable to the permit transferred or assigned.

(14) Permits issued in accordance with this division may be modified by the Director upon request of the permittee or as the Director determines may be necessary for the preservation of the safety, health, and welfare of the citizens of the City.

(Code 2015, § 24-128; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-129. Revocation of permit; reinstatement; unlawful actions.

(a) The Director shall have the authority to revoke, which revocation shall not be appealable, a permit issued in accordance with this division if the Director determines that any of the following have occurred:

(1) The permittee has not complied with the requirements of such permittee's permit, this division or the rules, regulations, or guidelines issued in accordance with Section 24-126, other applicable Federal, State, or local law, or that the permittee is delinquent on any tax, fee, fine, or other obligation to the City.

(2) The permittee has misrepresented or provided false information in an application.

(3) The permittee has parked, or suffered to be parked, a shared mobility device in such manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare.

(4) The permittee has any unsatisfied final judgments arising out of the permittee's operations within the

City of Richmond.

(5) The permittee has transferred or assigned such permittee's permit without the express written approval of the Director as required by this division.

(b) An applicant whose permit has been revoked pursuant to this section may submit a reinstatement application to reinstate such permit. If such reinstatement application is submitted before the expiration of the permit period covered by the permit that was revoked, such application shall be accompanied by the reinstatement fee of $2,500.00 and the reinstated permit issued shall cover only the period remaining on the revoked permit. If such application is submitted on the date of or after the expiration of the permit period covered by the permit that was revoked, such application shall be accompanied by the application fee set forth in Section 24-128 and an annual fee set forth in this subsection. Any permittee who has a permit revoked during any part of a period covered by a previously issued permit that has been revoked shall not be eligible to file a reinstatement application for a reinstated permit until after the expiration of the period covered by the permit that was previously revoked. The annual fee for each additional shared mobility device in excess of the number of shared mobility devices permitted on the date of permit issuance shall be $72.00. The annual fee for each additional shared mobility device covered by an increase made during all preceding permit periods and to be covered by a renewal permit or reinstated permit shall be $72.00.

(c) It shall be unlawful for any permittee whose permit has been revoked, or any employee or agent thereof, to park, or suffer to be parked, on any sidewalk a shared mobility device owned or controlled by that permittee or to commit, or suffer to be committed, any act that is a violation of this division or any applicable law or regulation. The Director shall provide the permittee with written notice of any costs incurred by the City for removing from sidewalks any shared mobility device owned by the permittee whose permit has been revoked, which costs the permittee shall reimburse the City within 30 days from the date of the written notice.

(Code 2015, § 24-129; Ord. No. 2018-288, §§ 1, 3, 1-28-2019)

Sec. 24-130. Permission to park granted.

A permit issued pursuant to this division shall permit a person authorized by the permittee to operate a shared mobility device owned by the permittee, for the period specified in the permit and the shared mobility device or shared mobility devices covered by such permit, to park such shared mobility device on sidewalks within the City of Richmond, in accordance with the provisions of this division and the rules, regulations, and guidelines issued pursuant to Section 24-126.

(Code 2015, § 24-130; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-131. Safety requirements.

In accordance with the powers granted by Section 2.04 of the Charter and to ensure that permits issued in accordance with this division for the parking of shared mobility devices on the City's sidewalks do not create hazards to the safety, health, and welfare of the citizens of the City, the City hereby requires that all permittees follow the following safety requirements:

(1) Permittees shall perform regular maintenance on the shared mobility devices covered by a permit issued in accordance with this division to ensure that each such device is in safe working condition.

(2) Permittees shall ensure that all shared mobility devices covered by a permit issued in accordance with this division are equipped with brakes, reflectors, a bell, and front and rear lighting.

(3) Permittees shall ensure that all shared mobility devices covered by a permit issued in accordance with this division are only operated from 5:00 a.m. to 9:00 p.m.

(Code 2015, § 24-131; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-132. Reporting requirements.

Upon the request of the Director, each permittee shall provide to the Director at such intervals, no more frequently than once a month, from the date of issuance of the permit as may be determined by the Director, reports demonstrating the permittee's compliance with the requirements of this division, the rules, regulations, and guidelines issued in accordance with Section 24-126, and any other applicable Federal, State, or local laws. Each permittee shall also provide the Director, as may be requested by the Director, reports containing trip origination

and destination information and such other information as may be necessary for the Director to determine the allocation of City resources to carry out the requirements of this division.

(Code 2015, § 24-132; Code 2015, § 24-132; Ord. No. 2018-288, § 1, 1-28-2019)

Sec. 24-133. Increasing the number of permitted shared mobility devices.

(a) On a quarterly basis from the date of the issuance of a permit issued in accordance with this division and upon payment of the annual fee set forth in this division for each additional shared mobility device permitted by this section, any permittee may submit a written request to the Director to increase the maximum number of shared mobility devices covered by such permittee's permit issued in accordance with this division. Upon receipt of such request and payment of the fee set forth in this division, the Director shall consider such request in accordance with the requirements of this section. Within 30 days from the date of the receipt of such request, the Director shall increase the maximum number of shared mobility devices covered by such permittee's permit by an amount equal to 25 percent of the maximum number of shared mobility devices covered by such permit on the date of issuance of such permit if the permittee, along with such written request, provides the Director with such evidence as the Director may lawfully require demonstrating that the following conditions have been met:

(1) The shared mobility devices covered by a permit issued in accordance with this division have been operated on an average of three or more trips per day, which trips may begin or end in the City, either or both, for each day of the applicable quarterly period covered by the permit.

(2) The permittee has complied with all of the requirements of (i) the permit for which an increase in the maximum number of shared mobility devices has been requested, (ii) this division, and (iii) all applicable State, Federal, and local laws.

(b) The number of shared mobility devices covered by any permit issued in accordance with this division may only be increased as provided in this section. Notwithstanding any provision of this division to the contrary, the Director, upon application therefor by the permittee, shall issue to a permittee a renewal permit or reinstated permit covering a number of shared mobility devices that is equal to the total number of shared mobility devices permitted on the date of the expiration of such permittee's immediately preceding permit for which the number of shared mobility devices was increased one or more times in accordance with this section, provided that such preceding permit expired no more than 30 days prior to the filing of an application for a renewal permit or reinstated permit.

(c) Any application to renew a permittee's permit for which the maximum number of shared mobility devices permitted resulted from one or more increases made by the Director in accordance with this section shall be filed in accordance with the requirements of this division. In addition, such application shall be accompanied by the payment of the annual fee set forth in this division for each additional shared mobility device covered by an increase made by the Director during all preceding permit periods in accordance with this section and shall be filed no later than 30 days after the expiration date of the immediately preceding permit for which an increase was made by the Director.

(d) Any application to reinstate a permittee's permit for which the maximum number of shared mobility devices permitted resulted from one or more increases made by the Director in accordance with this section shall be filed in accordance with the requirements of this division. In addition, such application shall be accompanied by the payment of the annual fee set forth in this division for each additional shared mobility device covered by an increase made by the Director during all preceding permit periods in accordance with this section and shall be filed no later than 30 days after the expiration date of the immediately preceding permit for which an increase was made by the Director.

(e) For any permit, renewal permit, or reinstated permit, the maximum number of shared mobility devices of which resulted from one or more increases made by the Director in accordance with this section, the Director shall reduce the fee set forth in this division according to the number of days, if any, within the applicable permit period that each additional shared mobility device permitted in accordance with this section was not covered by a permit issued in accordance with this division. In the alternative, any permittee may file an application to obtain a new permit in accordance with the requirements of this division.

(Code 2015, § 24-133; Ord. No. 2018-288, § 1, 1-28-2019)

Secs. 24-134—24-147. Reserved.

DIVISION 6. BUILDING OPERATIONS AND ACTIVITIES*

***Cross reference—**Buildings and building regulations, Ch. 5.

Sec. 24-148. Permit required for placement of building materials and equipment or stockpiles in or upon streets, sidewalks, and public ways.

(a) Any person engaged in constructing, repairing, excavating, demolishing or making any improvements or doing any other work on any house or other building or upon any lot and who desires to place building materials and equipment or stockpiles in or upon that part of the street, sidewalk, or public way opposite and next to the premises shall first obtain a permit in accordance with Section 24-62 and shall thereafter be authorized to use the street, sidewalk or other public way for the purpose specified. This grant of authorization for use of the street, sidewalk or other public way is subject to any and all applicable limitations, terms and conditions imposed or provided for under this article, and to any other applicable provision having the force of law. No further work shall be performed after the permit for such work has been revoked or has otherwise ceased to be in force and effect.

(b) Upon the filing of an application for a permit under this section, the Director of Public Works shall have the authority and the discretion to grant permission to use only such portion of the street, sidewalk or public way opposite and next to the premises as the Director deems necessary and practical. However, such permission shall be granted only upon a showing that there is insufficient space on the lot or in the house or other building to permit the placement of building materials or equipment at a location outside the street, sidewalk or public way. The Director of Public Works may impose reasonable limitations, conditions and requirements upon the placement of any building materials and equipment in or upon the street, sidewalk or public way, in order to ensure the public safety and convenience.

(Code 1993, § 25-61; Code 2004, § 90-146; Code 2015, § 24-148)

Sec. 24-149. Protective devices required for placement of equipment or materials overnight.

Any person depositing any building material or equipment in any street, sidewalk or public way shall, each night that such material or equipment shall remain thereon, properly place and maintain in position sufficient barriers, lights or other protective devices, approved by the Director of Public Works, to warn all persons using the street, sidewalk or public way of the presence of such materials or equipment.

(Code 1993, § 25-62; Code 2004, § 90-147; Code 2015, § 24-149)

Sec. 24-150. Removal of materials or equipment upon completion of work.

All materials or equipment placed in or upon a street, sidewalk or public way in accordance with a permit issued under this division shall be removed and the street, sidewalk or public way shall be restored within five days after completion of new construction work and within two days after completion of repair work. In either case, the restoration of the street, sidewalk or public way shall be to the satisfaction of the Director of Public Works, who shall be notified upon completion of the restoration work.

(Code 1993, § 25-63; Code 2004, § 90-148; Code 2015, § 24-150)

Secs. 24-151—24-168. Reserved.

DIVISION 7. SIDEWALK CROSSINGS

Sec. 24-169. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sidewalk crossings are physical improvements within the public street right-of-way designed and constructed for the purpose of crossing that portion of street right-of-way between the edge of the developed roadway surface and the line of private property at the edge of the street right-of-way. Examples of sidewalk crossings include, but are not limited to, driveways, entranceways, carriage walks, and carriage steps. Any sidewalk crossing is also considered to be an encroachment and subject to sections of this Code relating to encroachments.

(Code 2004, § 90-226; Code 2015, § 24-169)

Cross reference—Definitions generally, § 1-2.

Sec. 24-170. Construction permit required.

Any owner of land who desires to construct a sidewalk crossing for purposes of providing pedestrian or vehicular access to such land shall first obtain a permit in accordance with Section 24-62 and shall thereafter be authorized to use the street, sidewalk or other public way for the purpose specified. This grant of authorization for use of the street, sidewalk or other public way is subject to any and all applicable limitations, terms and conditions imposed or provided for under this article and to any other applicable provision having the force of law. No further work shall be performed after the permit for such work has been revoked or has otherwise ceased to be in force and effect.

(Code 1993, § 25-101; Code 2004, § 90-227; Code 2015, § 24-170)

Sec. 24-171. Revocation of construction permit.

Notwithstanding any section to the contrary, all permits issued under this division shall be subject to revocation at any time, upon 30 days' written notice from the Director of Public Works to the owner of the land to which the crossing is appurtenant.

(Code 1993, § 25-102; Code 2004, § 90-228; Code 2015, § 24-171)

Sec. 24-172. Removal of crossing and restoration of curb and sidewalk by landowner.

Upon the revocation of a permit as set forth in Section 24-171, the landowner shall remove the crossing and restore the curb and sidewalk paving within 30 days, in a manner and with materials to be approved by the Director of Public Works. Such work shall be done at the expense of the landowner.

(Code 1993, § 25-103; Code 2004, § 90-229; Code 2015, § 24-172)

Sec. 24-173. Procedure when landowner fails to remove and restore.

(a) If the landowner fails to remove the sidewalk crossing and restore the curb and sidewalk paving within 30 days after receipt of written notice, the sidewalk crossing shall be closed and the sidewalk and curb restored by the Department of Public Works. The Director of Public Works shall transmit to the Director of Finance a memorandum of the cost incurred, and the Director of Finance, upon receipt of such memorandum, shall collect the cost from the owner of the land to which the crossing is appurtenant in the same manner and by the same process as is prescribed for the collection of taxes. If such cost cannot then be collected, it shall be added to the first bill for taxes on the land assessed against the landowner and shall be collected with the taxes assessed in the same manner and by the same process as is prescribed for the collection of taxes.

(b) The Department of Public Works may remove any sidewalk crossing that may exist in any form, at any time, if the crossing is found to be not maintained and is judged to present a potential pedestrian hazard to a person walking within the street right-of-way. The area affected by the removal shall be returned to a similar condition as the adjacent planting strip portion of the right-of-way. There is no monetary expense charged to the property owner as a result of such an action.

(Code 1993, § 25-104; Code 2004, § 90-230; Code 2015, § 24-173)

Sec. 24-174. Service of notice.

Any notice required under this division shall be in writing and shall be mailed to the last known address of the owner of the land by registered mail with return receipt requested and shall be deemed to have been delivered on the date shown as the delivery date on the return receipt. If any such notice is returned by the post office, the Director of Public Works shall cause a copy of the notice to be posted upon the land to which the crossing is appurtenant, and the notice shall be deemed to have been received on the date on which it is so posted.

(Code 1993, § 25-105; Code 2004, § 90-231; Code 2015, § 24-174)

Sec. 24-175. Paving and maintenance.

(a) Every person granted a permit to construct a sidewalk crossing shall pave and maintain the sidewalk,

where crossed, at such person's expense, with materials as the Director of Public Works may designate and in such manner as the Director may prescribe. However, if concrete sidewalk exists for single-family residential use and a comprehensive program for sidewalk repair or replacement is being performed by or for the City, the landowner shall not be assessed the cost of repairing or replacing the portion of the sidewalk through the landowner's driveway.

(b) The owner of any premises abutting that portion of public street right-of-way, whether in front or to any side, to which any form of sidewalk crossing may exist shall be the prima facie owner and responsible party for the maintenance of the sidewalk crossing, whether permitted or not, and adjacent section of sidewalk pavement thereof and shall indemnify and hold the City harmless for any claim or litigation that may ensue as a result from the existence and operation of the sidewalk crossing.

(Code 1993, § 25-106; Code 2004, § 90-232; Code 2015, § 24-175)

Sec. 24-176. Removal of abandoned, unmaintained, unused or unnecessary crossings.

(a) Any sidewalk crossing which is abandoned, unused or unnecessary, in the opinion of the Director of Public Works, shall be removed by the owner of the land to which the crossing is appurtenant, and the curb and sidewalk shall be restored within 30 days after the Director of Public Works has given written notice to the landowner directing such removal and restoration. The curb and sidewalk paving shall be restored in a manner and with materials to be approved by the Director of Public Works. All work shall be done at the expense of the landowner.

(b) The Director of Public Works may determine that a sidewalk crossing, in the form of a carriage walk or carriage steps, is unnecessary or is in a state of disrepair that may present a hazard to pedestrians. The Department may remove any such crossing at-will in the interest of public safety. A property owner may request that the Department of Public Works remove an existing carriage walk or carriage steps. The City will remove at no cost to the property owner and restore the affected area to its design condition.

(Code 1993, § 25-107; Code 2004, § 90-233; Code 2015, § 24-176)

Sec. 24-177. Bridges prohibited; crossing by way of constructed crossing only.

No person shall place or cause or permit to be placed a bridge or other obstruction in or over any paved gutter nor cross any such sidewalk or cause or permit any such sidewalk to be crossed with any vehicle except by way of a crossing constructed in accordance with a permit granted under this division.

(Code 1993, § 25-108; Code 2004, § 90-234; Code 2015, § 24-177)

Secs. 24-178—24-207. Reserved.

DIVISION 8. BANNER DISPLAY PROGRAM

Sec. 24-208. City banner display program.

(a) Notwithstanding any other section of this article, the Chief Administrative Officer, in coordination with the Urban Design Committee, is authorized to administer and promote a City banner display program, subject to the following restrictions and conditions:

(1) Display of banners, flags, and pennants (collectively referred to as "banners") as part of the City banner display program shall be permitted only on designated public property within the public way and only in those areas of the City zoned for uses other than residential or mixed residential use except the area along Franklin Street from Harrison Street to Belvidere Street, along Belvidere Street from Franklin Street to Main Street, along Main Street from Belvidere Street to Laurel Street, along Laurel Street from Main Street to Franklin Street, along Leigh Street from Second Street to Fourth Street and from Eighth Street to 11th Street, along Jackson Street from Third Street to Eighth Street, along Third Street from Clay Street to Jackson Street, along Fourth Street from Leigh Street to Jackson Street, along West Cary Street from South Meadow Street to South Harrison Street, along Lombardy Street from Brook Road to Admiral Street, along West Cary Street between South Thompson Street and South Boulevard, along Grove Avenue between North Belmont Avenue and North Boulevard, along North Belmont Avenue between Grove Avenue and Ellwood Avenue, along South Belmont Avenue between Ellwood Avenue and West Cary Street, along North Sheppard Street between Grove Avenue and Ellwood Avenue, along South

Sheppard Street between Ellwood Avenue and West Cary Street, along North Robinson Street between West Broad Street and West Main Street, along South Robinson Street between West Main Street and the Downtown Expressway, and the Downtown Special Services Districts.

(2) Banners displayed as part of the City banner display program shall have been created or commissioned by the City, at the direction of the Chief Administrative Officer, or shall have been received and accepted by the City as a gift, along with any hardware determined to be necessary for the display of such donated banners.

(3) Banners displayed as part of the City banner display program shall not bear commercial advertising; political campaign promotion; or other political, religious or personal statements or messages.

(4) Prior to acceptance and display as part of the City banner display program, proposed banners shall be reviewed as to their content and form by the Urban Design Committee, in accordance with this section and design criteria which shall be established by the Committee and approved by the Chief Administrative Officer. Decisions of the Urban Design Committee with regard to acceptance and display of banners may be reviewed and modified, as necessary, by the Chief Administrative Officer.

(5) The number of banners to be displayed and the location and means or method of display shall be approved by the Urban Design Committee, subject to review by the Chief Administrative Officer, with due consideration for public safety and aesthetic concerns.

(6) Banners may be displayed for such reasonable time period as may be established in each instance by the Urban Design Committee, subject to review by the Chief Administrative Officer, as necessary, provided that any banner displayed during such time period shall be and remain in conformity with all of the original specifications concerning size, quality and materials, and content and any other criteria initially considered in approving the banners for display.

(7) Banners may be approved for periodic, repeated display, as for seasonal displays or annual observances. Continued approval for such periodic displays shall be contingent upon appropriate arrangements for storage of banners and the maintenance of the banners in a suitable condition for display.

(b) Notwithstanding any limitation expressed in Section 2-89, the Chief Administrative Officer, for and on behalf of the City, is hereby authorized to accept, without regard to the value or amount, gifts of banners, hardware necessary for display of banners, or in-kind services pertaining to the preparation or display of banners, in connection with and in furtherance of the City banner display program.

(c) Upon the removal of any banners at the end of the final time period established for display or at such earlier time as removal may become necessary, the Chief Administrative Officer is authorized to sell such banners at a special public auction or through regular sale as surplus City property or to dispose of such banners in any other manner as may be appropriate under the circumstances, where such banners are deemed to have little or no value as items for sale.

(Code 1993, § 25-116; Code 2004, § 90-256; Code 2015, § 24-208; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2008-278-269, § 1, 11-24-2008; Ord. No. 2009-85-67, § 1, 5-26-2009; Ord. No. 2010-42-46, § 1, 2-22-2010; Ord. No. 2013-239-220, § 1, 12-9-2013)

Secs. 24-209—24-218. Reserved.

DIVISION 9. SIDEWALK CAFES*

***Cross reference—**Businesses and business regulations, Ch. 6.

Sec. 24-219. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director of Planning and Development Review means the Director of Planning and Development Review of the City, and includes the Director's designee.

Director of Public Works means the Director of Public Works of the City and, except in Section 24-223 pertaining to sidewalk cafe permit revocation and suspension, includes the Director's designee.

Food or beverage service establishment means an establishment located in a building, which sells food or beverages and provides seating and tables or counters within the building for use by patrons to consume food or beverages sold in the building, and which is located within a zoning district as set forth in Chapter 30 in which the establishment is a use for which the zoning district regulations permit outdoor dining.

Operator means the person or entity that operates the food or beverage service establishment and also operates the sidewalk cafe. The term "operator" includes the owner of the food or beverage service establishment if the owner is also the operator of such establishment.

Sidewalk cafe means any group of tables, chairs or other seating fixtures and all related appurtenances maintained within the public sidewalk and intended for the purpose of consumption of food or beverage by patrons, when such is located adjacent to a food or beverage service establishment having the same operator. A sidewalk cafe is not considered an "encroachment" as defined in Section 24-1 so long as all outdoor facilities related thereto are temporary in nature, are not permanently affixed so as to extend below, on or above the sidewalk, involve no penetration of the sidewalk surface, are not attached to any building, and are readily removable without damage to the surface of the sidewalk.

(Code 2004, § 90-271; Code 2015, § 24-240; Ord. No. 2012-189-189, § 1, 11-12-2012)

Cross reference—Definitions generally, § 1-2.

Sec. 24-220. Sidewalk cafe permit—Application, approval and general provisions.

(a) *Permit required; enforcement.* Subject to the provisions of this division, a sidewalk cafe may be operated within a portion of the public sidewalk only upon approval of a sidewalk cafe permit as provided for in this section. No other use of the area devoted to the sidewalk cafe shall be permitted, except normal use as a public sidewalk during the hours that the sidewalk cafe is not operated. The design, operation and use of a sidewalk cafe shall comply with the approved permit. It shall be the responsibility of the Director of Public Works to enforce the provisions of this division as provided in this article.

(b) *Application.* Application for a sidewalk cafe permit shall be made to the Director of Planning and Development Review on such application form and subject to such written procedures as the Director may establish for the purpose. Application for a sidewalk cafe permit shall be made by the operator of a properly licensed and lawfully operated food or beverage service establishment that is located at street level adjacent to the proposed sidewalk cafe. The application shall be signed by the operator of the establishment and by the owner of the property on which the establishment is located, if the owner is not the operator.

(c) *Plan and other materials to accompany application.* The following plan and other materials shall be submitted in triplicate with the application for a sidewalk cafe permit:

(1) A plan drawn to scale and with dimensions, where applicable, showing:

a. The layout and arrangement of the proposed sidewalk cafe, including its overall dimensions, aisle widths, access to the adjacent building, and the locations and dimensions of chairs, tables, umbrellas, barriers, outdoor heating devices and other appurtenances to be located within the boundaries of the proposed sidewalk cafe; and

b. The following sidewalk conditions and features located within the boundaries of the proposed sidewalk cafe and within ten feet of such boundaries: location of street right-of-way line, existing sidewalk paving material and width measured from the building to the face of the curb and from the proposed sidewalk cafe to the face of the curb; the locations of tree wells, sidewalk grates, benches, bus passenger shelters, mailboxes, newspaper boxes, lampposts, traffic signal poles, traffic and parking signs, parking meters, wheelchair ramps, driveways, fire hydrants, trash receptacles and similar sidewalk features or obstructions; and the boundaries of any existing adjacent sidewalk cafe;

(2) Verification of water closets, lavatories and seating capacity:

a. The number of water closets and lavatories for each sex provided in the existing food or beverage service establishment; and

b. The seating capacity of the proposed sidewalk cafe;

(3) Photographs or other graphic representations, together with specifications, which depict the design, materials and colors of chairs, tables, umbrellas, barriers and other appurtenances to be located within the boundaries of the proposed sidewalk cafe;

(4) Photographs of the proposed site of the sidewalk cafe and within ten feet thereof, showing the relationship of the site to the adjacent building and showing the features enumerated in subsection (c)(1)b of this section; and

(5) Such additional information as the Director of Planning and Development Review or the Director of Public Works may reasonably require as needed to determine compliance with the provisions of this division.

(d) *Permit application fee.* An application and processing fee of $150.00 shall accompany each application for a sidewalk cafe permit. Such fee shall be nonrefundable.

(e) *Indemnification and insurance requirements to be met.* Proof of compliance with the indemnification and insurance requirements set forth in Section 24-62(a)(4) and (5) shall be submitted to and approved by the Director of Public Works prior to approval of a sidewalk cafe permit.

(f) *Fees and taxes to be paid.* All City fees and taxes required by law relative to the food or beverage service establishment with which the proposed sidewalk cafe is associated and the property on which the establishment is located shall be paid in full and all required City licenses shall be current prior to approval of a sidewalk cafe permit.

(g) *Action on permit application.* The Director of Planning and Development Review and the Director of Public Works shall jointly approve, approve with conditions or deny the application for a sidewalk cafe permit. Approval or approval with conditions shall be granted only if the proposed sidewalk cafe complies with the design guidelines, sidewalk cafe standards, uniform statewide building code and other applicable provisions of this division. Approval of the application shall not be granted unless the Director of Public Works is satisfied that adequate space will remain in the public sidewalk area to facilitate safe and convenient circulation of pedestrian traffic. Upon approval, the permit application shall constitute the sidewalk cafe permit.

(h) *Availability of approved permit on the premises.* The approved sidewalk cafe permit and related plan for layout and arrangement shall be available on the premises of the food or beverage service establishment.

(Code 2004, § 90-272; Code 2015, § 24-241; Ord. No. 2012-189-189, §§ 1, 2, 11-12-2012)

Sec. 24-221. Sidewalk cafe permit—Changes to approved permit.

No material change to an approved sidewalk cafe permit shall be made without prior written approval by the Director of Planning and Development Review and the Director of Public Works, provided that the Director of Public Works may modify an approved permit if the Director finds there is a superseding public need relative to use of the adjacent sidewalk area.

(Code 2004, § 90-273; Code 2015, § 24-242; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-222. Sidewalk cafe permit—Duration, annual renewal and transferability.

(a) *Duration of sidewalk cafe permit.* A sidewalk cafe permit shall be valid from April 1 to March 31 of the following calendar year, unless otherwise revoked.

(b) *Annual renewal.* An approved sidewalk cafe permit shall be renewable on an annual basis, unless withdrawn in writing by the applicant or revoked or suspended pursuant to the provisions of Section 24-223. Annual renewal of the permit shall be subject to the operator of the sidewalk cafe and the property owner signing an application and payment of the $100.00 annual renewal fee by no later than March 15. Renewal shall be subject to compliance with the indemnification and insurance provisions and sidewalk cafe standards of this division in effect at the date of renewal. All City fees and taxes required by law relative to the food or beverage service establishment with which the proposed sidewalk cafe is associated and the property on which the establishment is located shall be paid in full and all required City licenses shall be current prior to renewal of a sidewalk cafe permit.

(c) *Transferability.* A sidewalk cafe permit shall not be transferable to another operator.

(Code 2004, § 90-274; Code 2015, § 24-243; Ord. No. 2012-189-189, §§ 1, 2, 11-12-2012)

Sec. 24-223. Sidewalk cafe permit—Revocation and suspension.

(a) *Generally.* Operation of a sidewalk cafe is a licensed privilege granted by the City to occupy a portion of the public sidewalk area and is predicated on the sidewalk cafe being operated in compliance with all applicable regulations and on maintaining the superseding public interest in use of sidewalks in the City. An approved sidewalk cafe permit may be revoked or suspended as provided in this section.

(b) *Revocation of approved permit.*

(1) The Director of Public Works shall have the authority to revoke, which revocation shall not be appealable, an approved sidewalk cafe permit if it is determined that any of the following have occurred:

a. The applicant has misrepresented or provided false information in the permit application.

b. The sidewalk cafe permit has been suspended more than two times in a 12-month period on grounds of noncompliance pursuant to subsection (b)(1)a of this section.

c. The sidewalk cafe has been operated in such manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare.

d. Any health regulation, ABC regulation or law or regulation regarding the possession, sale or consumption of controlled substances has been violated in conjunction with the operation of the sidewalk cafe.

e. Any City fees or taxes required by law relative to the sidewalk cafe, the food or beverage service establishment with which it is associated or the property on which the establishment is located are delinquent or required City licenses have not been maintained.

f. It has been determined that there is a superseding public need relative to the portion of the sidewalk occupied by or otherwise affected by the sidewalk cafe.

(2) Before revocation of a sidewalk cafe permit, the Director of Public Works shall provide written notice to the operator of the sidewalk cafe setting forth the effective date of the revocation and the grounds therefor.

(3) In the case of revocation of a sidewalk cafe permit on grounds other than specified in subsection (b)(1)f of this section, the operator of the sidewalk cafe shall not be permitted to re-apply for a permit to operate a sidewalk cafe adjacent to the same food or beverage service establishment.

(c) *Suspension of approved permit.*

(1) The Director of Public Works shall have the authority to suspend, which suspension shall not be appealable, an approved sidewalk cafe permit for a period of up to 30 days, or such longer period as may be necessary in the case of work in the sidewalk area or other portion of the street, if it is determined that any of the following have occurred:

a. The sidewalk cafe or the operation thereof is not in compliance with the approved permit, applicable design guidelines or any of the sidewalk cafe standards set forth in this division.

b. It has been determined that there is a superseding public need relative to the portion of the sidewalk occupied by or otherwise affected by the sidewalk cafe.

(2) Before suspension of a sidewalk cafe permit, the Director of Public Works shall provide written notice to the operator setting forth the effective date of the suspension, the length of the suspension and the grounds therefor.

(3) The Director of Public Works may reinstate a sidewalk cafe permit when the Director is satisfied that the grounds for the suspension have been remedied.

(Code 2004, § 90-275; Code 2015, § 24-244; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-224. Permit not to be denied, suspended, or revoked solely because owner is delinquent on real estate taxes.

No permit applied for by an operator who is not the owner of the property on which the operator's food or

beverage service establishment is located shall be denied pursuant to Section 24-220(f) or suspended or revoked pursuant to Section 24-223(b)(1)e solely because such owner (and not such operator) is delinquent in the payment of any applicable real estate taxes.

(Code 2015, § 24-244.1; Ord. No. 2018-296, § 1, 12-17-2018)

Sec. 24-225. Marking of sidewalk cafe; boundaries.

After approval of a sidewalk cafe permit and prior to initial occupancy of any area approved for use as a sidewalk cafe, the operator of the sidewalk cafe shall notify the Director of Public Works, who shall be responsible for marking the corners of the approved sidewalk cafe area in a conspicuous manner on the sidewalk surface.

(Code 2004, § 90-276; Code 2015, § 24-245; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-226. Sidewalk cafe design guidelines.

(a) *Preparation.* Design guidelines for sidewalk cafes shall be prepared by the Director of Planning and Development Review. The design guidelines shall be in compliance with applicable provisions of the Uniform Statewide Building Code, the current edition of Americans with Disabilities Act standards for accessible design and other applicable codes, ordinances and regulations.

(b) *Status.* The design guidelines shall be adopted by resolution of the City Planning Commission, and are incorporated herein by reference. The design guidelines may be amended from time to time by resolution adopted by the Commission.

(c) *Compliance.* Every sidewalk cafe shall be designed and operated in compliance with the design guidelines.

(Code 2004, § 90-277; Code 2015, § 24-246; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-227. Sidewalk cafe standards—Location.

(a) *Generally.* The sidewalk cafe shall be located adjacent to a portion of a building occupied at street level by a food or beverage service establishment having the same operator. In a case where the building occupied by such establishment is set back from the street right-of-way line, and the entire setback area is lawfully used for purposes of outdoor dining pursuant to applicable zoning regulations, the sidewalk cafe shall be permitted to be located adjacent to such outdoor dining area. In no case shall a sidewalk cafe extend beyond the extremities of the building or portion thereof occupied by the food or beverage service establishment.

(b) *Pedestrian passageway.*

(1) A pedestrian passageway within the sidewalk area outside of the sidewalk cafe shall be observed, and shall consist of a continuous area between the sidewalk cafe and the back of the curb along the entire length of the sidewalk cafe. Such pedestrian passageway shall be not less than five feet in width, except as provided in subsection (b)(2) of this section, and shall be unobstructed by any tree well, bench, bus passenger shelter, mailbox, newspaper box, lamppost, traffic signal pole, traffic or parking sign, parking meter, wheelchair ramp, driveway, fire hydrant, trash receptacle or similar sidewalk feature.

(2) The Director of Public Works may approve a lesser or require a greater pedestrian passageway width if the Director finds that such is justified based on the volume of pedestrian traffic; physical condition, alignment and overall width of the sidewalk; volume of vehicle traffic on the street, lane width and function or speed limit; or similar factors; provided that the Director is satisfied that an adequate continuous passageway for safe and convenient circulation of pedestrian traffic will be maintained along the sidewalk.

(c) *Pedestrian visibility.* The location, dimensions, layout and other features of the sidewalk cafe shall be designed so as not to unreasonably obstruct pedestrian visibility of the ground floor of buildings that adjoin the food or beverage service establishment to which the sidewalk cafe is related.

(d) *Distance from property zoned residential.* The sidewalk cafe shall not be located within 100 feet of and fronting along the same street as property in a residential zoning district, other than the R-63 district.

(Code 2004, § 90-278; Code 2015, § 24-247; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-228. Sidewalk cafe standards—Barriers.

Barriers consistent with the design guidelines shall be installed along the entire length and both ends of any sidewalk cafe that extends more than three feet into the sidewalk, provided that:

(1) In the case of a sidewalk cafe that serves alcoholic beverages, barriers shall be installed in accordance with ABC requirements.

(2) Subject to applicable ABC requirements, at least one opening in the barrier along the length of a sidewalk cafe shall be provided for purposes of access to and from the sidewalk cafe, unless the Director of Public Works determines that an alternate opening is appropriate.

(3) Required means of egress from the adjacent food or beverage service establishment shall be maintained at all times.

(Code 2004, § 90-279; Code 2015, § 24-248; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-229. Sidewalk cafe standards—Features and appurtenances.

(a) *Layout, arrangement and appurtenances.* The layout and arrangement of the sidewalk cafe and the design, materials and colors of chairs, tables, umbrellas, outdoor heating devices and other appurtenances within the sidewalk cafe shall comply with the design guidelines.

(b) *Signage.* Signs within the sidewalk cafe shall be permitted only as specified in the design guidelines.

(c) *Certain features and appurtenances not permitted.* The following shall not be permitted within a sidewalk cafe: televisions, other electronic audio or visual devices or means of producing amplified sound; cash registers or card readers; wait stations; vending machines or similar items. Trash containers shall not be located within a sidewalk cafe in any case where service to patrons by wait staff is provided.

(Code 2004, § 90-280; Code 2015, § 24-249; Ord. No. 2012-189-189, § 1, 11-12-2012)

Sec. 24-230. Sidewalk cafe standards—Operation.

(a) *Hours of operation.* The sidewalk cafe may be occupied by patrons only between the hours of 7:00 a.m. and 11:00 p.m. daily.

(b) *Daily removal.* All tables, chairs, umbrellas, barriers and other fixtures and appurtenances shall be removed from the sidewalk cafe each day within one hour of closing to patrons. Such items shall be stored in an enclosed building.

(c) *Removal in case of storm warning.* All tables, chairs, umbrellas, barriers and other fixtures and appurtenances shall be removed from the sidewalk cafe in case of a severe storm warning.

(d) *Certain activities not permitted.* Within the sidewalk cafe, there shall be no live entertainment, food or beverage preparation or service to standing patrons.

(e) *Smoking.* The operator shall not permit smoking within the sidewalk cafe.

(f) *ABC requirements.* All ABC requirements shall be met in the case of a sidewalk cafe where alcoholic beverages are served or are available to patrons.

(g) *Cleanliness.* The sidewalk cafe shall be kept sanitary, neat and clean at all times, and free from accumulation of leftover food and beverages, used eating and drinking utensils, and litter. The operator of the sidewalk cafe shall be responsible for cleaning up any trash or litter on the adjacent sidewalk area emanating from the sidewalk cafe. Covered trash containers, consistent with the design guidelines, shall be provided within the sidewalk cafe in any case where no service to patrons by wait staff is provided.

(Code 2004, § 90-281; Code 2015, § 24-250; Ord. No. 2012-189-189, § 1, 11-12-2012)

Secs. 24-231—24-240. Reserved.

DIVISION 10. PEDESTRIAN ENHANCEMENTS

Sec. 24-241. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Bike corral means a portion of a curbside parking lane that is closed to motor vehicle parking and equipped with bike racks so as to permit the parking and securing of bikes.

Director means the Director of Public Works and, except as provided otherwise in Section 24-247 pertaining to pedestrian enhancement revocation, includes the Director's designee.

Parklet means a removable platform made available to the public for recreational use that occupies a portion of a parking lane that is closed to motor vehicle parking.

Pedestrian enhancement means either a bike corral or parklet.

(Code 2015, § 24-251; Ord. No. 2016-026, § 1, 2-22-2016)

Sec. 24-242. Pedestrian enhancement permit—Application, approval and general provisions.

(a) *Permit required; enforcement.* Subject to the provisions of this division, a pedestrian enhancement may be located within a portion of the right-of-way only upon approval of a pedestrian enhancement permit by the Director. No person shall establish a pedestrian enhancement unless such person has obtained a pedestrian enhancement permit, and no other use of the area devoted to the pedestrian enhancement shall be permitted, except normal use as a right-of-way. The design, operation, and use of a pedestrian enhancement shall comply with the approved permit. It shall be the responsibility of the Director to enforce the provisions of this division.

(b) *Application*. Application for a pedestrian enhancement permit shall be made to the Director on such application form and subject to such written procedures as the Director may establish for that purpose.

(c) *Plan and other materials to accompany application.* The following plan and other materials shall be submitted in triplicate with the application for a pedestrian enhancement permit:

(1) A detailed plan, endorsed by a person licensed by the Commonwealth as a professional engineer, drawn to scale that clearly illustrates the location and design of the proposed pedestrian enhancement. Where applicable, the plan must show all of the following:

a. The layout and arrangement of the proposed pedestrian enhancement, including its overall dimensions and the type, design, and placement of any barriers and furnishings such as, but not limited to, tables, chairs, umbrellas, planters, bike racks and any other appurtenances to be located within the boundaries of the proposed pedestrian enhancement.

b. The following sidewalk conditions and features located within the boundaries of the proposed pedestrian enhancement and within ten feet of such boundaries: existing right-of-way paving material and width of the right-of-way in which the proposed pedestrian enhancement will be placed; the location of tree wells, sidewalk grates, benches, bus passenger shelters, mailboxes, newspaper boxes, lampposts, traffic signal poles, traffic and parking signs, parking meters, wheelchair ramps, driveways, fire hydrants, trash receptacles and similar sidewalk features or obstructions; and the boundaries of any existing adjacent pedestrian enhancement.

(2) Photographs or other graphic representations, together with specifications, which depict the design, materials and colors of chairs, tables, umbrellas, barriers and other appurtenances to be located within the boundaries of the proposed pedestrian enhancement.

(3) Photographs of the proposed site of the pedestrian enhancement and within ten feet thereof, showing the relationship of the site to the adjacent sidewalk and buildings and showing the features enumerated in subsection (c)(1)b of this section.

(4) A detailed description of the manner of removal of the pedestrian enhancement upon the expiration and non-renewal, or the suspension or revocation, of a permit or upon the direction of the Director.

(5) Such additional information as the Director may reasonably require as needed to determine compliance with the provisions of this division.

(d) *Permit application fee.* An application and processing fee of $300.00 shall accompany each application

for a pedestrian enhancement permit. Such fee shall be nonrefundable.

(e) *Indemnification, insurance and bonding requirements to be met.* Proof of compliance with the indemnification and insurance requirements set forth in Section 24-62(a)(4) and (5) and the bond requirements set forth in Section 24-62(a)(7) shall be submitted to and approved by the Director prior to approval of a pedestrian enhancement permit.

(f) *Permit requirements.* The Director shall not approve a pedestrian enhancement permit unless, in the judgment of the Director, the pedestrian enhancement meets all of the following requirements:

(1) The proposed pedestrian enhancement will not cause a safety hazard.

(2) The proposed pedestrian enhancement will not cause undue motor vehicle traffic congestion in the surrounding area.

(3) All owners of properties, and tenants of commercial properties, abutting or adjacent to the proposed pedestrian enhancement, have provided written approval of the pedestrian enhancement; provided that in the case of a condominium, written approval of the condominium owners' association shall constitute approval.

(4) The proposed pedestrian enhancement is suitable to the site and conforms to the requirements, with respect to location, design, function and use, of standards established by the Director pursuant to this section.

(5) If a parklet, the proposed pedestrian enhancement is protected, by an appropriate barrier, from motor vehicles so as to provide adequate protection to occupants of the pedestrian enhancement. The plan required under subsection (c) of this section shall include a description of this barrier.

(6) The proposed pedestrian enhancement will not be located on a City street in a location where, absent the pedestrian enhancement, cars would not be permitted to park.

(7) The proposed pedestrian enhancement complies with all applicable laws.

(g) *Specific standards.* The Director shall establish specific standards by which the Director will determine whether the location and design of the proposed pedestrian enhancement meets the criteria set forth in subsection (f) of this section.

(h) *Action on permit application.* No permit shall be issued for a pedestrian enhancement until the location, character and extent of the pedestrian enhancement has been approved by the Planning Commission. The Director may, however, deny the application for a pedestrian enhancement permit, pursuant to subsection (f) of this section, before the Planning Commission reviews the location, character, and extent of the proposed pedestrian enhancement. If the Planning Commission approves the location, character, and extent of the pedestrian enhancement, the Director shall approve, approve with conditions, or deny the application for a pedestrian enhancement permit. Approval or approval with conditions shall only be granted if the proposed pedestrian enhancement complies with the requirements of this division. The Director may impose any lawful condition on a permit that the Director deems necessary or desirable based on safety or suitability of the proposed pedestrian enhancement. Upon approval, the permit application shall constitute the pedestrian enhancement permit.

(Code 2015, § 24-252; Ord. No. 2016-026, §§ 1, 2, 2-22-2016)

Sec. 24-243. Pedestrian enhancement permit—Changes to approved permit.

No material change to an approved pedestrian enhancement permit shall be made without prior written approval by the Director. The Director may modify an approved permit if the Director finds in writing there is a superseding public need relative to use of the adjacent right-of-way.

(Code 2015, § 24-253; Ord. No. 2016-026, § 1, 2-22-2016)

Sec. 24-244. Pedestrian enhancement permit—Duration, renewal and transferability.

(a) *Duration of pedestrian enhancement permit.* A pedestrian enhancement permit shall be valid for three years from the date of approval or for a shorter period specified in the permit by the Director.

(b) *Renewal*. An approved pedestrian enhancement permit shall be renewable, unless withdrawn in writing

by the applicant or revoked or suspended pursuant to the provisions of Section 24-247. Renewal of the permit shall be subject to the applicant signing an application and payment of the $150.00 renewal fee no later than 90 days prior to the expiration of the permit. Renewal shall be subject to compliance with the indemnification and insurance provisions and pedestrian enhancement standards established by the Director in accordance with Section 24-62(a)(4), (5) and (7) in effect at the date of renewal.

(c) *Transferability*. A permit holder may transfer the pedestrian enhancement permit to a new permit holder if the Director first approves in writing the transfer and the proposed new permit holder provides proof that the insurance, indemnification and bonding requirements set forth in this division are met by the proposed new permit holder.

(Code 2015, § 24-254; Ord. No. 2016-026, §§ 1, 2, 2-22-2016)

Sec. 24-245. Maintenance, use and operation of pedestrian enhancement.

(a) *Generally*. The permit holder shall be responsible for installing and maintaining the pedestrian enhancement in accordance with all City, State and Federal laws, as well as any rules, regulations and standards pertaining to pedestrian enhancements, including, but not limited to, the requirements set forth in this division. The permit holder shall require any contractor engaged to perform work or furnish materials with respect to the pedestrian enhancement to comply with all of the requirements of Section 24-62(a)(6).

(b) *Maintenance*. The permit holder shall be solely responsible for maintaining the pedestrian enhancement in a neat, clean, and sanitary condition and for maintaining and repairing any furnishings or amenities appurtenant to the pedestrian enhancement.

(c) *Certain uses not permitted.* Neither the permit holder nor any other person or business may provide food, drink or any other goods or services for consideration to any person in a pedestrian enhancement. This subsection shall not prohibit a person from bringing food, drink or other goods into a pedestrian enhancement for that person's own personal use.

(d) *Operation*. All pedestrian enhancements shall be open to the public. The permit holder may not deny access to the pedestrian enhancement to any person for any reason and may not impose any condition whatsoever on access to the pedestrian enhancement except those required by this division or the pedestrian enhancement permit.

(Code 2015, § 24-255; Ord. No. 2016-026, § 1, 2-22-2016)

Sec. 24-246. Hours applicable to pedestrian enhancement.

Pedestrian enhancements shall not be occupied between 11:00 p.m. and 5:00 a.m. The permit holder shall post written notice of these restrictions that is visible to the public. As a condition of granting a permit, the Director may prescribe additional hours during which the pedestrian enhancement may not be occupied and require the permit holder to post written notice of those restrictions that is visible to the public. The Director may further specify the design, number, and placement of the notices.

(Code 2015, § 24-256; Ord. No. 2016-026, § 1, 2-22-2016)

Sec. 24-247. Revocation and suspension of permit.

(a) *Generally.* Operation of a pedestrian enhancement is a licensed privilege granted by the City to occupy a portion of the public right-of-way and is predicated on the pedestrian enhancement being operated and maintained in compliance with all applicable rules, regulations, and standards, including, but not limited to, the requirements of this division. An approved pedestrian enhancement permit may be revoked or suspended in accordance with this section.

(b) *Revocation of approved permit.*

(1) The Director shall have the authority to revoke, which revocation shall not be appealable, an approved pedestrian enhancement permit if the Director determines that any of the following have occurred:

a. The applicant misrepresented or provided false information in the permit application.

b. The pedestrian enhancement permit has been suspended more than two times in a 12-month period

on grounds of noncompliance pursuant to subsection (c)(1)a of this section.

c. The pedestrian enhancement creates a public nuisance or a hazard to the public health, safety or welfare.

d. The Director finds in writing that there is a superseding public need relative to the portion of the public right-of-way occupied by or otherwise affected by the pedestrian enhancement.

(2) Before revocation of a pedestrian enhancement permit, the Director shall provide written notice to the permit holder setting forth the effective date of the revocation and the grounds therefor.

(c) *Suspension of approved permit.*

(1) The Director shall have the authority to suspend, which suspension shall not be appealable, an approved pedestrian enhancement permit for a period of up to 30 days, or such longer period as may be necessary in the case of work in the right-of-way, if the Director finds in writing, with explanation therefor, that any of the following have occurred:

a. The pedestrian enhancement or operation thereof is not in compliance with the approved permit, applicable standards or any other applicable laws, rules and regulations pertaining to pedestrian enhancements, including, but not limited to, the requirements set forth in this division.

b. The Director finds in writing that there is a superseding public need relative to the portion of the public right-of-way occupied by or otherwise affected by the pedestrian enhancement.

(2) Before suspension of a pedestrian enhancement permit, the Director shall provide written notice to the permit holder setting forth the effective date of the suspension, the length of the suspension and the grounds therefor.

(3) The Director may reinstate a pedestrian enhancement permit prior to the end of the suspension period if the Director is satisfied that the grounds of the suspension have been remedied.

(Code 2015, § 24-257; Ord. No. 2016-026, § 1, 2-22-2016)

Sec. 24-248. Removal of pedestrian enhancement.

(a) *Generally*. Upon the expiration and non-renewal of a pedestrian enhancement permit, or upon the direction of the Director, the permit holder shall, at its cost, promptly remove the pedestrian enhancement and restore the right-of-way to its former condition.

(b) *Removal*. The Director may direct the removal of a pedestrian enhancement at any time if the Director determines in writing that one of the following conditions is present:

(1) The pedestrian enhancement presents a safety hazard of any kind.

(2) The pedestrian enhancement unduly disrupts pedestrian or vehicular traffic in the area.

(3) Removal of the pedestrian enhancement is desired in order to perform construction, maintenance, repairs, or other work in any portion of the right-of-way or on any abutting property.

(4) The pedestrian enhancement permit has been revoked or suspended pursuant to this division.

(c) *Noncompliance*. If a permit holder fails to remove the pedestrian enhancement as directed by the Director or in accordance with this division, the Director may cause the pedestrian enhancement to be removed from the right-of-way, the right-of-way to be restored to its original condition and the pedestrian enhancement to be disposed of. The permit holder shall be liable for the costs of such removal, restoration and disposal, including administrative costs, and the City may recover such costs from the bond furnished by the permit holder pursuant to Section 24-242(e) or collect such costs as permitted by law, either or both.

(Code 2015, § 24-258; Ord. No. 2016-026, § 1, 2-22-2016)

Secs. 24-249—24-258. Reserved.

DIVISION 11. VALET PARKING

Sec. 24-259. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Applicant means a person, legal entity, unincorporated association, or governmental organization that applies for a permit pursuant to this division and includes any duly authorized representative thereof.

Business means a business as defined in Section 26-872.

Director means the Director of Public Works or the written designee thereof.

Event means a gathering of people at a location served or sponsored by a permittee for which the permittee performs or provides valet parking services.

Permit means a modified, permanent, temporary, or transferred permit issued pursuant to this division.

Permit, modified, means a permit modified to modify the location, size, or other characteristics of a valet parking zone.

Permit, permanent, means a permit authorizing, for an indefinite duration, the use of a valet parking zone to perform or provide valet parking services.

Permit, temporary, means a permit authorizing, for a limited duration specified in the permit, the use of a valet parking zone to perform or provide valet parking services.

Permit, transferred, means a permit issued to one permittee and subsequently transferred to another permittee.

Permittee means an applicant to whom or to which a permit is issued.

Valet parking services means a service whereby a valet or attendant parks and retrieves the vehicles of guests or patrons at a business or event.

Valet parking zone means the area on a public way specified in the permit in which the permittee may perform or provide valet parking services.

(Code 2015, § 24-264; Ord. No. 2016-258, § 1, 11-14-2016)

Cross reference—Definitions generally, § 1-2.

Sec. 24-260. Rules and regulations.

The Director is authorized to issue and enforce rules and regulations, consistent with this division and other applicable laws, to implement and enforce the provisions of this division.

(Code 2015, § 24-265; Ord. No. 2016-258, § 1, 11-14-2016)

Sec. 24-261. Permit—Required.

The use of a public way to perform or provide valet parking services without a current and valid permit issued pursuant to this division shall be unlawful.

(Code 2015, § 24-266; Ord. No. 2016-258, § 1, 11-14-2016)

Sec. 24-262. Permit—Eligibility.

Any person, legal entity registered and in good standing with the State Corporation Commission, unincorporated association, or governmental organization lawfully operating a business or sponsoring an event within the City is eligible to apply for a permit as provided in this division.

(Code 2015, § 24-267; Ord. No. 2016-258, § 1, 11-14-2016)

Sec. 24-263. Permit—Application.

(a) *Form*. The Director shall prescribe the form of the application for a permit. The application form shall require such information from an applicant as the Director may require to ensure compliance with this division and any other applicable laws, rules, or regulations. An applicant shall apply for a permit using only this application form and shall provide all information required by the application form.

(b) *Contents*. Each application must include the following:

(1) Such information as the Director determines to be sufficient to identify:

a. The applicant;

b. The business or event for which a permit is sought; and

c. The requested duration of the permit.

(2) A valet parking plan that the Director determines to be sufficient to:

a. Identify the location of the applicant's requested valet parking zone; and

b. Determine whether and to what extent traffic and the use of the public way will be affected by the proposed valet parking zone.

(3) Such information describing the vehicle storage location as the Director determines to be sufficient to ensure that the applicant has the necessary control over the vehicle storage location to perform or provide the applicant's proposed valet parking services in accordance with the applicant's valet parking plan.

(4) Evidence of insurance as required by Section 24-265.

(5) Such other information as the Director may determine is necessary to ensure compliance with this division and any other applicable laws, rules, or regulations.

(Code 2015, § 24-268; Ord. No. 2016-258, § 1, 11-14-2016)

Sec. 24-264. Permit—Fees and costs.

Each application for a permit must be accompanied by the payment of a fee as set forth in this section. The permittee shall pay all costs of signs or other markings required or permitted in the public way pursuant to the permit. In addition, the permittee shall pay those fees set forth in this section for the annual renewal of a permanent permit and for a modified permit or a transferred permit when applicable.

Application fee for permanent permit	$100.00
Application fee for annual renewal of permanent permit	$25.00
Application fee for transferred permit	$25.00
Application fee for modified permit	$50.00
Application fee for temporary permit	$25.00
Fee for noncompliance with permit, per month until compliant	$250.00

(Code 2015, § 24-269; Ord. No. 2016-258, §§ 1, 2, 11-14-2016)

Sec. 24-265. Permit—Issuance.

(a) *Effect, form, and revocation*. The Director shall issue a permit applied for when he is satisfied that the requirements of this division and any rules and regulations issued pursuant thereto have been fulfilled. The permit shall contain the following information:

(1) The legal name of the permittee and the name, address, and telephone number of the permittee's authorized representative.

(2) The date on which the permit is issued.

(3) The time period during which the permit is effective.

(4) Information sufficient to identify the valet parking zone and the valet parking services to which the permit applies.

(5) Any signs or other markings in the public way upon installation of which the permit is conditioned.

(6) Any other information permitted by law that the Director determines to be necessary for the administration of the permit.

The permit shall permit the permittee to use the valet parking zone identified thereon to provide valet parking services for the duration set forth in the permit and in accordance with the provisions of this division. However, the permit shall become effective only upon the fulfillment of all requirements of this section. The Director may revoke the permit at any time if the Director finds that the permittee is not in compliance with this division or a condition of the permit or that the permitted use of the valet parking zone for valet parking services would endanger the public safety or unreasonably interrupt the flow of vehicular or pedestrian traffic.

(b) *Signage and other markings*. As a condition of the issuance of the permit, the Director may require the installation and maintenance of such signs and other markings in the public way as the Director deems necessary for the proper management of traffic and parking therein. No valet parking services shall be performed or provided pursuant to the permit until the permittee has installed such signs and other markings at the permittee's cost and in accordance with the standards for such signs and other markings established by the Director. All signs and other markings so installed shall become the property of the City immediately upon installation.

(c) *Indemnification*. As a condition of the issuance of the permit, the permittee, if other than a governmental organization, shall indemnify and defend the City against all claims and other demands caused by, resulting from, or arising out of the permittee's provision of valet parking services pursuant to the permit or otherwise.

(d) *Insurance*. As a condition of the issuance of the permit, the permittee shall furnish the Director with the evidence of insurance required by this subsection. No valet parking services shall be performed or provided pursuant to the permit until the Director, in consultation with the Chief of Risk Management, has approved the evidence of insurance furnished by the permittee. The following coverages shall be maintained throughout the permit's duration:

(1) Commercial general liability insurance, or equivalent insurance as approved by the Chief of Risk Management, with a per occurrence limit of at least $1,000,000.00 with the City listed as an additional insured;

(2) Automobile liability insurance, with a limit of at least $1,000,000.00 with the City listed as an additional insured; and

(3) Workers compensation insurance, as required by State law, covering any valets or attendants who will provide valet parking services pursuant to the permit.

All insurance policies must provide, and all evidence of insurance must indicate clearly, that the City will receive at least 30 days' notice of the cancellation or material modification of the policy. Prior to the cancellation or expiration of any policy, the permittee shall furnish the Director with new evidence of insurance demonstrating that the cancelled or expired insurance has been replaced with new insurance meeting the requirements of this subsection. A permittee that lawfully is self-insured may satisfy the requirements of this subsection by providing written evidence thereof in a form approved by the Chief of Risk Management.

(e) *Maintenance of permit for inspection*. The permittee, as a condition of the permit, shall maintain the permit at the location at which the valet parking services are provided and present such permit to City officials or employees when requested.

(Code 2015, § 24-270; Ord. No. 2016-258, § 1, 11-14-2016)

Sec. 24-266. Permit—Denial.

(a) *Conditions for denial*. The Director shall deny a permit to any applicant if the Director determines that such applicant has not complied with any requirement of this division, any applicable laws or the rules or regulations issued in accordance with this division or if the Director determines that the proposed use of a valet parking zone for valet parking services, as described on the application, would endanger the public safety or unreasonably interrupt the flow of vehicular or pedestrian traffic.

(b) *Appeal of denial*. Any applicant whose application for a permit has been denied by the Director may appeal this denial to the Chief Administrative Officer by submitting a written appeal to the Chief Administrative Officer no later than 30 days after the date on which the applicant learns that the requested permit will not be issued. The Director's failure to issue the permit within 60 days of the submission of a completed application shall be deemed a denial of the application. The Chief Administrative Officer shall review any timely filed appeal to determine if the applicant's application for a permit was denied in accordance with the requirements of this division

and any applicable laws, rules, and regulations. The Chief Administrative Officer may require the applicant to provide such other information in support of the applicant's appeal as the Chief Administrative Officer may determine is necessary to render a decision on the appeal. If the Chief Administrative Officer finds that the Director's action was in accordance with the requirements of this division and any applicable laws, rules, and regulations, the Chief Administrative Officer shall affirm the Director's action in a writing to the applicant. If the Chief Administrative Officer finds that the Director's action was not in accordance with the requirements of this division and any applicable laws, rules, and regulations, the Chief Administrative Officer shall cause the Director to issue the permit. The Chief Administrative Officer shall render a decision on the appeal no later than 60 days after the Chief Administrative Officer receives the appeal. The decision shall be in writing and shall set forth the reasons therefor.

(Code 2015, § 24-271; Ord. No. 2016-258, § 1, 11-14-2016)

Sec. 24-267. Permit—Modification or transfer.

(a) *Modification*. The Director may modify a permit, upon receipt of an application from the permittee and subject to the requirements of this division, to modify the location, size, or other characteristics of the valet parking zone.

(b) *Transfer*. The Director may transfer a permit to a new person, legal entity, unincorporated association, or governmental organization upon receipt of an application from the permittee to whom the permit was last issued and subject to the requirements of this division. The Director shall not transfer any existing permit if the permittee or the person, legal entity, unincorporated association, or governmental organization to which the existing permit is requested to be transferred fails to satisfy any of the applicable requirements of this division or any applicable laws, rules, or regulations.

(Code 2015, § 24-272; Ord. No. 2016-258, § 1, 11-14-2016)

Secs. 24-268—24-277. Reserved.

DIVISION 12. CO-LOCATION OF SMALL CELL FACILITIES ON EXISTING STRUCTURES

Sec. 24-278. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning is intended. Any word, term, or phrase not defined in this section but defined elsewhere in this chapter shall, when used in this division, have the meanings ascribed to them in this chapter.

Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

Co-locate means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. The term "co-location" has a corresponding meaning.

Existing structure means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to the City of an agreement with the owner of the structure to co-locate equipment on that structure. The term "existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

Micro-wireless facility means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

Permit granting access to streets for co-location of small cell facilities on existing structures means a permit authorizing a wireless service provider or wireless infrastructure provider to access public streets for the purpose of co-locating a small cell facility on an existing structure.

Small cell facility means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six

cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

Water tower means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

Wireless facility means equipment at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications service in the state, that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

Wireless services means (i) "personal wireless services" as defined in 47 USC 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 USC 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 USC 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

Wireless services provider means a provider of wireless services.

Wireless support structure means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. The term "wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

(Code 2015, § 24-273; Ord. No. 2017-134, § 1, 7-24-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 24-279. Access to streets for co-location of small cell facilities on existing structures.

Notwithstanding anything to the contrary in this chapter 24 and subject to the provisions of this division, any wireless services provider or wireless infrastructure provider may access streets within the City of Richmond for the purpose of co-locating small cell facilities on existing structures, provided that the wireless provider or wireless infrastructure provider has permission from the owner of the existing structure to co-locate equipment on such existing structure, and provided that the wireless service provider or wireless provider obtains a permit granting access to streets for co-location of small cell facilities on existing structures for such facilities pursuant to this division.

(Code 2015, § 24-274; Ord. No. 2017-134, § 1, 7-24-2017)

Sec. 24-280. Permit granting access to streets for co-location of small cell facilities on existing structures.

(a) Applications for any permit granting access to streets for co-locations of small cell facilities on existing structures shall be submitted to the Director of Public Works or the designee thereof on such application form and subject to such written procedures as the director may establish for such purpose. A permit fee and processing fee of $250.00 shall accompany each application.

(b) The following information and materials shall be submitted with any application for a permit granting access to streets for co-location of small cell facilities on existing structures. Any application not containing all of the following information may be deemed incomplete by the Director of Public Works or the designee thereof:

(1) The applicant's name and status as a wireless service provider or wireless infrastructure provider and a

valid electronic mail address at which the applicant may be contacted.

(2) The owner of each existing structure and an agreement or other evidence showing the owner has granted permission to the applicant to co-locate on the existing structure, which evidence may include the owner's signature on the application.

(3) Detailed plans clearly depicting the following, provided that the Director of Public Works or the designee thereof may, in the Director's discretion, deem any plans not sealed by a certified land surveyor or professional engineer incomplete:

a. Scaled drawing detailing the location of the existing structure on which the small cell facility will be co-located. The following should be included:

1. The names of streets in the vicinity;

2. The precise location of the existing structure in the streets including the distance to the street's right-of-way lines;

3. Approximate lot lines of adjacent property along with parcel number, address and owner's name;

4. Nearby features, shown with labels, including, but not limited to, sidewalks, curb, pavement, houses, and buildings;

5. The owner of the existing facility and any identifying tags.

b. A detailed plan (overhead) view of the small cell facility including the dimensions and specifications of the antennae, base station, and all other associated wireless equipment.

c. A detailed elevation (profile) drawing showing the co-location of the small cell facility on the existing structure; drawing shall show and label the proposed small cell facility, including the base station and all other associated equipment as well as all existing facilities and attachments on the existing structure. Dimensioning shall be included to indicate the heights and separations of the proposed and existing facilities.

(c) Applicants shall be subject to those certain provisions and requirements set forth in Section 24-62(a)(4) through (10).

(d) Within ten days after receipt of an application and a valid electronic mail address for the applicant, the Director of Public Works, or the designee thereof, shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Within 60 days of receipt of a complete application, the Director of Public Works, or the designee thereof, shall either approve the application, disapprove the application, or extend the period for an additional 30 days by providing written notice of such extension to the applicant. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The application shall be deemed approved if the Director of Public Works, or the designee thereof, does not disapprove the application within 60 days of receipt of the complete application, unless within such 60 days the Director of Public Works, or the designee thereof, extended the period for an additional 30 days pursuant to this section, in which case the application shall be deemed approved if the Director of Public Works, or the designee thereof, does not disapprove the application within 90 days of receipt of the completed application.

(e) Provided the applicant is in compliance with all provisions of this section, the Director of Public Works, or the designee thereof, shall not impose on any applicant restrictions or requirements that are unfair, unreasonable, or discriminatory. The Director of Public Works, or designee thereof, shall not require any applicant to provide in-kind services or physical assets as a condition of granting a permit granting access to streets for co-locations of small cell facilities on existing structures.

(Code 2015, § 24-275; Ord. No. 2017-134, §§ 1, 2, 7-24-2017)

Sec. 24-281. Micro-wireless facilities.

Notwithstanding anything to the contrary in this division, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility

poles in compliance with national safety codes shall be exempt from the permitting requirements set forth herein, unless the activities undertaken include any of the following, in which case the wireless service provider or wireless infrastructure provider shall obtain a permit prior to commencing such activities:

(1) The activities involve working within a street travel lane or require closure of a street travel lane.

(2) The activities disturb the pavement, shoulder, roadway, or ditch line.

(3) The activities include placement on limited access rights-of-way.

(4) The activities require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

(Code 2015, § 24-276; Ord. No. 2017-134, § 1, 7-24-2017)

Sec. 24-282. Provisions of division limited.

The provisions of this division apply solely to wireless service providers and wireless infrastructure providers accessing streets for the sole purpose of co-locating small cell facilities on existing structures, provided the wireless service provider or wireless infrastructure provider has permission from the owner of the existing facility. Nothing herein shall be deemed to grant permission to otherwise access, use, or encroach upon the streets. Nothing herein shall be deemed to grant permission to replace or expand any existing structure or to otherwise install any structure. Nothing herein shall be deemed to grant permission to co-locate on any existing structure owned by the City.

(Code 2015, § 24-277; Ord. No. 2017-134, § 1, 7-24-2017)

Secs. 24-283—24-292. Reserved.

ARTICLE III. STREET LINES AND GRADES

Sec. 24-293. Approval required prior to erection, construction or alteration of buildings or other structures.

(a) Every person intending to erect or construct any building or other structure upon any lot, to place on any lot a building or structure removed from another lot or to alter any building or other structure in such a manner as to affect the exterior walls, bays, balconies or other appendages or projections fronting on any street, alley, or other public way shall first obtain approval from the Director of Public Works with regard to the street line and grade of each street, alley, or other public way abutting such lot. However, no approval shall be required under this article if the proposed building, structure or alteration to be erected or built is at no point closer than five feet to any street, alley or other public way.

(b) The person seeking approval of the street line and grade shall submit a written application accompanied by a survey plat depicting the current conditions of the site; the dimensions of the proposed building, structure or alteration; and the location of the proposed building, structure or alteration in relation to each street, alley, or other public way abutting the lot, along with any other information that may be required by the Director of Public Works.

(c) The Director of Public Works may waive the necessity of a survey plat for incidental structural items, including, but not limited to, chain link fences, temporary fences or barricades, screening and signs.

(Code 1993, § 25-121; Code 2004, § 90-291; Code 2015, § 24-279)

Sec. 24-294. Marking of line and grade by applicant.

When, in the opinion of the Director of Public Works, the proximity of the proposed building, structure, or alteration to any adjacent street, alley or public way or the cut and fill shown on established grades makes it necessary for such lines or grades to be marked on the ground in order to protect the interests of the City or the applicant, the Director may require the applicant, as a condition of approval, to mark the proper line or grade, or both, in a manner approved by the Director and to maintain such marks throughout the period of construction. In such instance, the applicant shall notify the Director upon completion of the required marking and shall provide a reasonable opportunity for inspection and verification of the line and grade, as marked.

(Code 1993, § 25-122; Code 2004, § 90-292; Code 2015, § 24-280)

Sec. 24-295. Fee for approval.

A fee of $100.00 shall be charged for review of each request for approval of street lines and grades. The fee shall be paid into the City treasury by the person requesting approval at the time such request is made.

(Code 1993, § 25-123; Code 2004, § 90-293; Code 2015, § 24-281)

Sec. 24-296. Violations.

It shall be unlawful for any person to commence the construction or alteration of any building or structure without obtaining the approval required under this article. It shall furthermore be unlawful for any person, upon obtaining approval, to fail to conform to the approved line, grade or marks or to otherwise fail to comply with the terms and conditions upon which such approval was granted. Upon conviction of an offense under this section, the person shall be punished as provided in Section 1-16.

(Code 1993, § 25-124; Code 2004, § 90-294; Code 2015, § 24-282)

Secs. 24-297—24-312. Reserved.

ARTICLE IV. CLOSING OF PUBLIC STREETS AND ALLEYS TO PUBLIC USE AND TRAVEL

Sec. 24-313. Action to be by ordinance.

No public street or alley or any part thereof shall be closed to public use and travel, except by duly enacted ordinance of the City Council.

(Code 1993, § 25-131; Code 2004, § 90-326; Code 2015, § 24-313)

Sec. 24-314. Consent required.

(a) Unless otherwise requested by a member of the City Council or the Mayor, no ordinance closing any street or alley or any part thereof to public use and travel shall be introduced for consideration by the City Council until consent to the closing shall be obtained in writing from:

(1) All the owners of all the real property abutting those portions of the street or alley to be closed; and

(2) Any other owners of real property who have a right of ingress and egress from their own property to those portions of the street or alley to be closed and whose property is situated between the nearest intersection boundaries encompassing a proposed street closing or the block boundaries encompassing a proposed alley closing, as applicable.

(b) The written consents shall be approved as to form by the City Attorney and shall be filed in the Office of the City Clerk, along with all other documents evidencing satisfaction of the terms and conditions of the ordinance.

(Code 1993, § 25-132; Code 2004, § 90-327; Code 2015, § 24-314; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 24-315. Notice to property owners; hearings.

(a) The City Council shall not consider any ordinance closing a street or portion thereof to public use and travel until the City Clerk shall have mailed a notice to all the owners of real property situated between the nearest intersection boundaries encompassing the proposed street closing, as well as that situated within 300 feet of such boundaries. With regard to any proposed street closing, the Director of Public Works may require that notice be mailed to owners of real property within a larger defined area, taking into consideration street locations in the general vicinity of the proposed closing, the volume and character of usage of the street or portion thereof to be closed, and the likely impact on owners of property located on any adjacent or intersecting streets. The notice shall include a copy of the ordinance, and the notice shall state the time and place at which the City Council shall hold a public hearing on the ordinance. The City Clerk shall mail the notice not later than seven days before the date of the public hearing. The City Clerk shall obtain from the City Assessor the names and residence or business addresses of the owners to whom notice shall be sent, as disclosed by the real estate tax assessment records of the City.

(b) The City Council shall not consider any ordinance closing an alley or any part thereof to public use and travel until the City Clerk mails a notice, in like manner, to all the owners of real property situated between the block boundaries encompassing the proposed alley closing.

(Code 1993, § 25-133; Code 2004, § 90-328; Code 2015, § 24-315)

Sec. 24-316. Relocation or removal of public utility facilities.

Unless otherwise specifically provided, whenever any street, alley or other public way is vacated or abandoned by the City at the request of any private individual, association, corporation or public authority, the cost of the relocation or removal of public utility facilities located in such street, alley or other public way shall be paid by the private individual, association, corporation or public authority requesting such vacation or abandonment.

(Code 1993, § 25-134; Code 2004, § 90-329; Code 2015, § 24-316)

Secs. 24-317—24-335. Reserved.

ARTICLE V. PERMIT FOR TEMPORARY USE OF STREETS

Sec. 24-336. Issuance for other than public purposes.

(a) The Chief of Police may permit the temporary use of streets within the corporate limits of the City for other than public purposes and may close such streets and alleys connected therewith for public use and travel during the period of such temporary use; provided no matter advertising any thing or business is displayed in or on the street in connection with such temporary use, and the person so permitted to use the street furnishes a commercial general liability insurance policy with a combined single limit of not less than $1,000,000.00 per occurrence, issued by a company approved to do business in the Commonwealth, insuring the liability of such person for personal injury or death and damages to property resulting from such temporary use. The City shall be named as an additional insured with at least 45 days' notice of cancellation or nonrenewal in the commercial general liability policy. The applicant shall furnish to the City a certificate of insurance containing the coverage, conditions and limits so outlined prior to the authorization of the street closure. When any street is temporarily closed as authorized in this section, and such street is an extension of the State highway system, the Chief of Police shall make adequate provisions to detour through traffic.

(b) Any permit issued pursuant to the authority conferred in this section shall expire in no more than 24 hours, but may provide for a rain date if inclement weather shall prevent the temporary use of such street for the purposes authorized in the permit.

(Code 1993, § 25-141; Code 2004, § 90-361; Code 2015, § 24-336)

Secs. 24-337—24-360. Reserved.

ARTICLE VI. GAS LIGHTING OF SIDEWALKS

Sec. 24-361. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Directors means the Director of Public Works and the Director of Public Utilities or their duly authorized representatives.

Person means any individual, firm, association, organization or corporation holding beneficial ownership of a building adjacent to a sidewalk.

(Code 1993, § 25-151; Code 2004, § 90-396; Code 2015, § 24-361)

Cross reference—Definitions generally, § 1-2.

Sec. 24-362. Authority.

This article is adopted pursuant to the power vested in the Council under Section 2.03(a) of the Charter to provide for lighting streets and sidewalks in the City.

(Code 1993, § 25-152; Code 2004, § 90-397; Code 2015, § 24-362)

Sec. 24-363. Installation authorized.

Gaslights may be installed and maintained on sidewalks in the City when requested and provided by persons

holding beneficial ownership of a building adjacent thereto and when there are gas mains or pipes in sidewalks or roadways of adjacent streets to which it is practicable to connect facilities for providing gas for such lights, upon and subject to this article.

(Code 1993, § 25-153; Code 2004, § 90-398; Code 2015, § 24-363)

Sec. 24-364. Character, design and material of lights.

The gaslights shall be of such character and design and constructed of such material as shall be approved by the Directors.

(Code 1993, § 25-154; Code 2004, § 90-399; Code 2015, § 24-364)

Sec. 24-365. Installation by City; title to fixtures; cost of installation.

The gaslights shall be installed by the City at the cost and expense of the persons requesting their installation at such places in sidewalks as shall be approved by the Directors. Title to the lights shall vest in the City in fee simple upon their installation, and it shall have exclusive control thereof. However, if service to a gaslight is terminated permanently in pursuance of National, State or local energy conservation policy, the Directors shall cause its removal from the sidewalk, and ownership of the gaslight shall thereupon revert to the person at whose cost and expense the light was installed or such person's successors or heirs, if such fixture is claimed within 30 days following the forwarding of the notice of termination of service. The charge for installing such lights shall be as set forth in this section, and the charge shall be paid to the City before the lights are installed. No gaslight shall be installed or maintained on a sidewalk when, in the opinion of the Directors, the safety of persons and property and the convenience of the public in the use of streets will be adversely affected by the installation and maintenance thereof.

Charge for installing gaslights:	
Metered in grass	$2,905.86
Unmetered in grass	$2,757.12
Metered in sidewalk or pavement	$4,027.14
Unmetered in sidewalk or pavement	$3,878.41

(Code 1993, § 25-155; Code 2004, § 90-400; Code 2015, § 24-365; Ord. No. 2015-77, § 1, 5-15-2015; Ord. No. 2018-090, § 1, 5-14-2018; Ord. No. 2019-067, § 1, 5-13-2019; Ord. No. 2019-067, § 1, 5-13-2019)

Sec. 24-366. Gas provided by City.

Gas for lights installed pursuant to this article shall be provided by the City, shall not be metered and shall be paid for by the persons at whose request the lights are installed at rates fixed by the Council.

(Code 1993, § 25-156; Code 2004, § 90-401; Code 2015, § 24-366)

Sec. 24-367. Repairs to lights.

Persons at whose request gaslights are installed pursuant to this article, upon notice from the Directors, shall make such repairs thereto, including, but not limited to, the replacement of glass, as shall be required by the Directors to keep them in safe condition.

(Code 1993, § 25-157; Code 2004, § 90-402; Code 2015, § 24-367)

Sec. 24-368. Maintenance of gas facilities.

The City shall maintain the facilities provided for supplying gas for the gaslights and mantles constituting a part thereof, in accordance with rules and regulations adopted by either of the Directors.

(Code 1993, § 25-158; Code 2004, § 90-403; Code 2015, § 24-368)

Sec. 24-369. Removal of lights by City; reinstallation of removed light.

(a) The City may remove a gaslight from a sidewalk when:

(1) A person holding beneficial ownership of the building adjacent to the place in the sidewalk at which the light is installed requests the Directors to do so in writing.

(2) The continued presence of the gaslight in the sidewalk adversely affects the safety of persons or property or the convenience of the public in the use of streets.

(3) The gaslight is not maintained in the manner required under this article. Before the light is removed, the Directors shall notify the person holding beneficial ownership of the building adjacent to the place in the sidewalk at which the light is installed in writing of the repairs to be made and shall remove the light from the sidewalk upon failure, refusal or neglect to make such repairs within 30 days thereafter.

(4) The area in the sidewalk is needed for widening the street or roadway or the construction of gas, water, sewer or electric facilities.

(b) If a gaslight is removed by the City from the lamppost under this section and, at a later date, application is made to reinstall a light on the same existing post, the charge shall be $15.00.

(Code 1993, § 25-159; Code 2004, § 90-404)

Sec. 24-370. Conditions for installation of lights.

The Directors shall not install any gaslight on any sidewalk in the City until the person holding beneficial ownership of the building adjacent thereto agrees in writing with the City that such person will observe and be bound by and will perform all of the terms and conditions imposed by this article. The Directors shall not permit any gaslight to remain on a sidewalk when beneficial ownership of the building adjacent thereto passes from the person requesting the installation of the gaslight to another, unless that other person agrees in writing with the City that such person will observe and be bound by and will perform all of the terms and conditions imposed by this article.

(Code 1993, § 25-160; Code 2004, § 90-405; Code 2015, § 24-370)

Secs. 24-371—24-398. Reserved.

ARTICLE VII. EXCAVATION IN PUBLIC RIGHT-OF-WAY

DIVISION 1. GENERALLY

Sec. 24-399. Purpose and applicability.

(a) *Purpose.* The City owns and maintains public rights-of-way within the City for the benefit of its citizens, and the Director of Public Works is responsible for managing use of the public rights-of-way. The purpose and intent of this article is to establish a framework for the Director's regulation of excavation in public rights-of-way to minimize the adverse impact of such excavation on the City's investment in its system of public rights-of-way.

(b) *Applicability.* This article applies to all excavation in the public right-of-way, whether the excavator is private or public. This article applies in addition to all other requirements of this Code and other laws, regulations, existing permits and franchises. Section 1-7 shall apply to this article, and this article shall be interpreted and construed to conform with applicable Federal or State law to the maximum extent possible.

(Code 2004, § 90-436; Code 2015, § 24-399; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-400. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person or duly authorized agent thereof who submits an application for a permit.

As-built drawing means a drawing or plan that shows the horizontal and vertical alignment, facility dimensions, type of encasement, and any other information required by the Director of Public Works to help identify and protect the facility installed in the right-of-way.

Director means the Director of Public Works or a designee thereof.

Downtown Richmond Coordination Zone means the area bounded by Interstate 95, the Interstate 95/Interstate

64 corridor, 1st Street and the Interstate 195/Downtown Expressway corridor.

Emergency excavation means operations or repairs of facilities to prevent imminent harm to the health or safety of persons or property.

Excavation means any work in the public right-of-way that removes, fills or otherwise disturbs soil, pavement, driveways, curbs, or sidewalks, including, but not limited to, installing, servicing, repairing, or modifying any facility or facilities in or under the surface and the restoration of the subsurface or surface, including pavement markings.

Excavation sequence means a document describing the order, estimated start dates and estimated completion dates of all excavation projects approved during a six-month period.

Facility means property or equipment permanently located or proposed to be permanently located in the public right-of-way and includes, but is not limited to, any and all cables, cabinets, ducts, conduits, equipment, drains, manholes, pipes, pipelines, splice boxes, tracks, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, or licensed by an owner or person.

Owner means a person who owns a facility that is installed or maintained or is proposed to be installed or maintained in the public right-of-way.

Permit means a document issued by the Director pursuant to this article, as may be amended or extended by the Director from time to time, that permits a person to perform an excavation in the public right-of-way.

Permittee means a person to whom a permit is issued pursuant to this article or an agent thereof.

Person means any natural person, corporation, partnership, or other legal entity and includes any Federal, State or local governmental entity and any authority.

Public right-of-way means the area across, along, beneath, in, on, over, under, upon, and within any street or other public way (as Section 24-1 defines those terms) within the City.

(Code 2004, § 90-437; Code 2015, § 24-400; Ord. No. 2005-113-55, § 1, 4-25-2005)

Cross reference—Definitions generally, § 1-2.

Sec. 24-401. Prohibitions.

(a) It shall be unlawful for any person to excavate or cause an excavation within any public right-of-way unless the Director has issued a permit for such excavation to the person.

(b) It shall be unlawful for any permittee to fail to show a permit upon request. Failure to show a permit upon request of an officer or employee of the City shall constitute prima facie evidence that no permit has been issued.

(c) It shall be unlawful for any permittee to violate any condition of the permit issued to that permittee.

(d) It shall be unlawful for any permittee to perform any work or cause any work to be performed on an excavation either:

(1) In violation of rules or regulations promulgated pursuant to Section 24-402; or

(2) After the permit for such excavation has been revoked or otherwise ceases to be in force and effect.

(e) It shall be unlawful for any permittee to make, to cause, or permit to be made any excavation in the public right-of-way outside the boundaries, times, and description set forth in the permit.

(f) It shall be unlawful to use a rock wheel or trenchless technology to excavate in the public right-of-way without prior written approval of the Director.

(Code 2004, § 90-438; Code 2015, § 24-401; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-402. Rules and regulations.

The Director shall promulgate such rules and regulations as he deems necessary in order to give effect to this article and may include such rules and regulations as part of the City's right-of-way design and construction standards manual. Such rules and regulations shall be consistent with all applicable Federal, State and local laws

and with sound engineering practices. The Director shall:

(1) Make such rules and regulations available for inspection in its offices;

(2) Publish all such rules and regulations in a form for sale to the public; and

(3) To the maximum extent practicable, make such rules and regulations available electronically and through the Internet.

(Code 2004, § 90-439; Ord. No. 2005-113-55, § 1, 4-25-2005; Ord. No. 2005-205-173, § 1, 7-25-2005)

Secs. 24-403—24-432. Reserved.

DIVISION 2. COORDINATION AND CONTROL OF EXCAVATIONS

Sec. 24-433. Submission of work plans and coordination of work.

(a) *Submission of owners' work plans.* On the first City working day of each April and October, each owner shall submit to the Director, in a format prescribed by the Director, a plan detailing all work involving excavation that such owner anticipates performing or causing to be performed in any public rights-of-way during the three-year period immediately following such submission. An owner may add, change or delete any item of work in its three-year plan but shall notify the Director of such addition, change or deletion upon doing so. Any owner that does not propose work during the three-year period shall submit in lieu of the plan of work required by this section a statement in a form prescribed by the Director that no work is anticipated. Once he has filed such a statement, the owner shall immediately notify the Director of any planned work, along with other information on street condition and use, as soon as such work becomes reasonably foreseeable.

(b) *Composite list of owners' planned work.* As soon as practicable following receipt and compilation of the owners' plans of work, the Director shall make available for review a composite list of all such work designated in the plans submitted. The Director shall cause the composite list to be maintained in a computerized database or similar computerized system to the maximum extent practicable. Owners shall keep themselves apprised of the current status of the composite list. Prior to issuing a permit, the Director shall check each application against the composite list and may require applicants to:

(1) Coordinate their excavations with one another;

(2) Coordinate excavations with ongoing or scheduled construction and maintenance work by the City; and

(3) Complete excavations before the City begins construction and maintenance work.

(c) *Street construction plan.* The Director shall prepare a three-year street construction plan showing all proposed reconstruction, repaving and resurfacing of the public rights-of-way for which it is responsible for maintaining. The Director shall revise and update this street construction plan on a semiannual basis within three months of the receipt date for three-year plans from owners. In order to facilitate coordination and minimize the cost of excavation, the Director shall make the street construction plan available for public inspection.

(d) *Notice of City work.* At least 120 calendar days prior to undertaking the repaving or reconstruction of any block, the Director shall send a written notice by first class mail of the proposed repaving and reconstruction to each owner with facilities in that block.

(e) *Waiver of requirements.* The Director may, for good cause shown, waive in writing the coordination requirements of subsection (b) of this section. The Director shall consider the following criteria before granting a waiver and shall document his consideration of these criteria in writing:

(1) The effect of the owner's proposed excavations on the movement of traffic in the surrounding area;

(2) The owner's need for the facility;

(3) The need to facilitate the deployment of new technology; and

(4) The public health and safety.

(Code 2004, § 90-461; Code 2015, § 24-433; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-434. Postponement and regulation of excavation.

The Director may postpone excavation or related work under a permit when the City is already performing or is about to perform, or another permittee is already performing or is scheduled to perform, any work in the public right-of-way in which the excavation is proposed and when, in the Director's judgment, allowing any further obstruction of such public right-of-way would have the effect of substantially impeding the traffic flow on such public right-of-way or otherwise inconveniencing the public in its use of such public right-of-way until such time as such impediment or inconvenience is removed. In addition, the Director may regulate the manner of excavation or related work under a permit in order to minimize such impediment or inconvenience. In all cases, excavation by or on behalf of the City shall take precedence over excavation of every other kind.

(Code 2004, § 90-462; Code 2015, § 24-434; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-435. Utility Coordination Committee.

(a) *Establishment, composition and meetings.* There shall be a Utility Coordination Committee composed of the following:

(1) One management-level representative of the Department of Public Works appointed annually by the Director;

(2) One management-level representative of the Department of Public Utilities appointed annually by the Director of Public Utilities; and

(3) One management-level representative of the Department of Planning and Development Review appointed annually by the Director of Planning and Development Review.

In addition, the Director shall annually invite one representative of each owner that was a permittee in the preceding calendar year to serve in an advisory capacity to the Committee. The Committee shall meet at least once every six months as scheduled by the Director to perform the duties assigned to it by subsection (b) of this section.

(b) *Purpose and duties.* The purpose of the Committee shall be to coordinate street and utility projects with the goal of minimizing the frequency of pavement cuts and openings. To perform this duty, the Committee shall review the plans of work submitted by each owner on a semiannual basis pursuant to Section 24-433(a) and shall consider the following criteria in recommending which of the submitted excavations should be scheduled for the next 12 months:

(1) The identification of facilities in the public way;

(2) The resolution of conflicts in the location of utilities;

(3) The maximization of efficiencies;

(4) The reduction of inconvenience to the public;

(5) The prevention of pavement cuts within three years after the resurfacing or reconstruction of a public right-of-way.

In addition, the Committee shall advise the Director concerning other matters as requested by the Director.

(Code 2004, § 90-463; Code 2015, § 24-435; Ord. No. 2005-113-55, § 1, 4-25-2005; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 24-436. Excavation in newly constructed, reconstructed, repaved or resurfaced streets.

(a) *Prohibition.* Except as provided in subsection (b) of this section, the Director shall not issue a permit for an excavation in any public right-of-way that has been constructed, reconstructed, repaved, or resurfaced in the preceding three years, as measured from the date of acceptance by the City. Owners shall determine alternative methods of making necessary repairs and facility installations to avoid excavations that are prohibited by this section.

(b) *Waiver.* The Director, for good cause, shall grant a waiver of the prohibition set forth in subsection (a) of this section to an owner for excavation:

(1) For which the City's denial of a permit would violate Federal law;

(2) To respond to emergencies; or

(3) To afford an owner the means to provide service to buildings that the owner has no other reasonable means of serving.

The Director shall set forth the reasons for granting or denying the waiver in writing. The Director shall grant a waiver pursuant to this subsection only subject to such special conditions that the Director determines to be appropriate to the circumstances and shall set forth such conditions and the reasoning therefor in writing. In addition to any other information required of an owner for a permit under this article, the owner shall provide the following information to support its request for a waiver under this subsection:

(1) The reason why the excavation was not performed before or when public right-of-way was paved;

(2) The reason why the excavation cannot be delayed until after the three-year period set forth in subsection (a) of this section expires; and

(3) The reason why the excavation cannot be performed at another location or the owner's need cannot be accomplished by a method that does not require excavation.

(Code 2004, § 90-464; Code 2015, § 24-436; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-437. Downtown Richmond Coordination Zone.

(a) *Application deadlines.* A person who seeks to excavate in the Downtown Richmond Coordination Zone must submit a permit application to the Director:

(1) No later than November 25 for an excavation to begin between January 3 and before July 1 of the next calendar year; or

(2) No later than June 1 for an excavation to begin after July 1 and before November 25 of that calendar year.

No person shall begin an excavation between November 25 of any calendar year and January 3 of the next calendar year.

(b) *Review and excavation sequence.* Within 30 calendar days of each deadline described in subsections (a)(1) and (2) of this section, the Director shall:

(1) Review all applications submitted in accordance with subsection (a) of this section;

(2) Identify opportunities for joint excavation or other coordinated excavation activity between applicants; and

(3) Publish an excavation sequence.

(c) *Permit and time for excavation.* No person shall perform any excavation unless the Director has issued that person a permit for that excavation. The permit shall be valid only during the time period set forth on the permit. Such time period shall correspond to the schedule allotted for that excavation in the excavation sequence. If the permittee does not begin excavation in accordance with the excavation sequence, the Director may reschedule or cancel the permittee's excavation. The Director may extend the time period on the permit if such extension does not interfere with the coordination of other excavation work within the excavation sequence.

(d) *Waiver.* The Director, for good cause, shall grant a waiver of the requirements of this section to a permittee for excavation:

(1) For which the City's imposition of these requirements would violate Federal law;

(2) To respond to emergencies; or

(3) To afford an owner the means to provide service to buildings that the owner has no other reasonable means of serving.

The Director shall set forth the reasons for granting or denying the waiver in writing. The Director shall grant a waiver pursuant to this subsection only subject to such special conditions that the Director determines to be appropriate to the circumstances and shall set forth such conditions and the reasoning therefor in writing. In addition to any other information required of an owner for a permit under this article, the owner shall provide the following information to support its request for a waiver under this subsection:

(1) The reason why the excavation was not performed before or when public right-of-way was paved;

(2) The reason why the excavation cannot be subject to the requirements of this section; and

(3) The reason why the excavation cannot be performed at another location or the owner's need cannot be accomplished by a method that does not require excavation.

(Code 2004, § 90-465; Code 2015, § 24-437; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-438. Joint excavation.

(a) *Requirements.* Whenever two or more owners propose excavations in the same block within a three-year period, one owner shall perform such excavation or cause such excavation to be performed. Unless otherwise agreed in writing between the owners, the owner proposing the excavation with the highest cost shall perform the excavation or cause such excavation to be performed, and the other owner or owners shall pay such owner for the portion of the excavation attributable to them. Owners to whom this subsection applies shall submit a joint application and may receive only a single permit.

(b) *Waiver.* The Director may, for good cause shown, waive in writing the requirements of subsection (a) of this section after consideration of the criteria and documentation in the manner set forth in Section 24-433(e). However, the Director may place special conditions on permits granted after a waiver of the requirements of subsection (a) of this section.

(Code 2004, § 90-466; Code 2015, § 24-438; Ord. No. 2005-113-55, § 1, 4-25-2005)

Secs. 24-439—24-459. Reserved.

DIVISION 3. PERMITS

Sec. 24-460. Application.

(a) *In general.* The owner of the facility for which an excavation is performed shall apply for a permit for the excavation. If the owner will not perform the excavation with its own forces, the owner's contractor shall join the owner's application as an applicant in seeking the permit. If two or more excavations are to be performed as part of the same project, the application and any permit issued may cover the related work in accordance with applicable regulations.

(b) *Form of application.* The Director shall prescribe by regulation a form for permit applications containing such information as the Director deems necessary for the objective review of the excavation. The Director shall also prescribe by regulation a procedure for the submission of such applications.

(Code 2004, § 90-486; Code 2015, § 24-460; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-461. Issuance or denial.

(a) *Issuance.* The Director shall issue a permit within 30 calendar days to every applicant unless he finds one or more of the reasons for denial of a permit set forth in subsection (b) of this section present. Such permit shall be in the form of a document, including the following information:

(1) The location and a brief description of the excavation authorized.

(2) The name and contact information of the permittee.

(3) The date of issuance.

(4) The time period allowed for the excavation expressed with commencement and completion dates and as a number of calendar days. Where the permit authorizes two or more excavations, the permit may indicate different time periods for each excavation.

(5) Any special conditions applicable to the permit.

(6) Such other information as the Director prescribes by rule or regulation or otherwise deems appropriate to further the purpose and intent of this article.

(b) *Grounds for denial.* The Director may deny in writing a permit to an applicant if one or more of the following conditions are present:

(1) Proposed traffic control procedures or equipment do not comply with the requirements of the Manual on Uniform Traffic Control Devices or the applicable rules and regulations promulgated pursuant to this Code.

(2) The Director determines that the applicant can perform the excavation without blocking or closing the street or without excavation in a public right-of-way.

(3) The proposed excavation violates applicable law.

(4) Any applicant set forth in the application fails to furnish any information required by this article or by rules or regulations promulgated pursuant thereto.

(5) The application contains misleading or false information.

(6) The proposed excavation conflicts with a permit previously issued by the Director.

(7) The proposed excavation would cause a safety hazard or impede traffic flow and the application does not indicate that adequate protection for pedestrian or vehicular traffic at the location of the proposed excavation will be provided.

(8) The owner does not possess any necessary legal right to place facilities in the public right-of-way.

(9) Any applicant set forth in the application does not possess any of the licenses or permits that this Code requires such applicant to possess.

(10) The applicant's proposed restoration method and schedule do not meet the requirements of the rules and regulations promulgated pursuant to this article.

(11) Any applicant set forth in the application has failed to restore an excavation site in accordance with applicable requirements of this article or any rules and regulations promulgated or permit issued pursuant thereto within the 12 months prior to the Director's receipt of the application.

(12) Any applicant set forth in the application owes the City delinquent taxes.

(13) Any applicant set forth in the application has been debarred.

(Code 2004, § 90-487; Code 2015, § 24-461; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-462. Conditions.

(a) *Conditions for issuance.* Every permit issued pursuant to this article shall be subject to the following terms and conditions, unless the permit expressly provides otherwise:

(1) *Bond.* Prior to the issuance of a permit the applicant shall post a surety bond:

a. Naming the City as the obligee;

b. In an amount prescribed by the Director pursuant to rules and regulations promulgated by the Director; and

c. In a form prescribed or approved by the City Attorney or his designee.

Such surety bond shall guarantee the completion of the excavation and the maintenance thereof for two years from the date of such completion in accordance with this article or any other applicable law, any rules or regulations promulgated pursuant thereto, the permit, and any drawings and specifications specified in the permit.

(2) *Indemnity.* Prior to the issuance of a permit, the applicant shall execute an indemnity agreement under which the applicant agrees to indemnify, hold harmless and defend the City against any claims or suits arising out of or relating to the excavation. Such indemnity agreement shall be in a form prescribed or approved by the City Attorney or his designee.

(3) *Insurance.* With the approval of the City Attorney and the Director of Finance, or their designees, the Director shall promulgate rules and regulations setting forth requirements for insurance policies, coverages and limits to be maintained by permittees based on the location, size, complexity or other relevant aspects of the excavation. Prior to the issuance of a permit, the applicant shall furnish the

Director with evidence of such insurance policies, coverages and limits with endorsements indicating that the City is an additional insured on such policies and that no fewer than 45 days' notice of any cancellation, modification or nonrenewal will be mailed to the Director.

(4) *Warranty.* Prior to the issuance of a permit, the applicant shall execute a written warranty for the benefit of the City in a form prescribed or approved by the City Attorney or his designee. Such warranty shall guarantee that:

a. The permittee will timely perform the excavation in accordance with this article or any other applicable law, any rules or regulations promulgated pursuant thereto, the permit, and any drawings and specifications specified in the permit; and

b. The excavation will comply with this article or any other applicable law, any rules or regulations promulgated pursuant thereto, the permit, and any drawings and specifications specified in the permit for a period of two years from completion.

The requirements of this subsection (a) shall not apply to Federal, State or local governmental entities performing excavation work with their own forces but shall apply to all contractors or other persons that perform the excavation work on behalf of such Federal, State or local governmental entities.

(b) *Other conditions of the permit.* The following additional conditions shall apply to all permits issued pursuant to this article:

(1) *Not transferable.* A permit issued under this article is personal to the permittee and may not be transferred to another person or used by any other person to perform the excavation authorized in the permit.

(2) *Only valid for location described.* A permit is only valid for the location or locations described on the application, depicted on any drawings or specifications, and expressly authorized in the permit. No excavation at any other location shall be authorized without the issuance of a separate permit.

(3) *Void if excavation not timely commenced.* Unless extended by the Director upon written request and for good cause shown, a permit will become void if the excavation authorized thereby is not commenced within 60 days from the permit's issuance.

(4) *Amendments.* A permit shall no longer be valid if there are material changes to the excavation, including, but not limited to, a change in the scope of the work or the method of performing the work of such consequence that the drawings and specifications no longer accurately depict the work. Should a permit become invalid for this reason, the permittee must obtain an amendment to the permit in order to continue the excavation. To obtain an amendment, the permittee must submit an application therefor, including amended drawings and specifications, indicating all changes. A permit shall not be amended to include an excavation that is not related to the original permit or to extend the excavation into any geographical area not included in original permit.

(5) *Extensions.* For good cause shown not relating to any failure of the permittee to diligently prosecute the excavation, the Director may extend the number of days set forth in the permit in accordance with Section 24-461(a)(4) for the completion of the excavation. Extensions of time under this subsection shall not be regarded as amendments, but shall be noted on the records regarding the permit.

(c) *Conditions not exclusive.* Except as expressly provided otherwise in the permit, the conditions for issuance of a permit in subsection (a) of this section shall apply in addition to any specific conditions established under or pursuant to this article or rules and regulations of the Director promulgated in accordance therewith.

(Code 2004, § 90-488; Code 2015, § 24-462; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-463. Fees and deposits.

(a) *Fees.* Upon submission of its application for a permit, an extension thereof or an amendment thereto, each applicant shall pay to the City the permit fee in accordance with Section 24-63 in order to compensate the City for the cost incurred in administering the provisions of this division.

(b) *Deposits.* Upon submission of its application for a permit, an extension thereof or an amendment thereto, each applicant shall deposit with the City a sum sufficient to pay the estimated cost of restoring the public right-of-

way in a manner satisfactory to the Director in accordance with Section 24-488, 24-525 or 24-526 or any other requirement of this article. Such deposit shall be in accordance with a schedule of costs prepared and modified by the Director from time to time or such other rules and regulations setting forth objective standards for determining such costs as the Director may promulgate from time to time. Should the cost of the work of restoring the public right-of-way exceed the amount of the deposit, the applicant shall pay the difference within ten days from the date of notice thereof. Any excess of the deposit over the cost of such work shall be refunded to the applicant.

(Code 2004, § 90-489; Code 2015, § 24-463; Ord. No. 2005-205-173, § 3, 7-25-2005)

Sec. 24-464. Emergencies.

This article shall not be interpreted or construed to prevent any person from performing an emergency excavation so long as such person ensures compliance with the following requirements:

(1) Before the emergency excavation is initiated, the owner shall notify the Director by telephone at a 24-hour telephone number set forth by the Director in a rule or regulation promulgated to administer this section. The owner shall also notify all other Federal, State or local authority that the owner is required by applicable law to notify.

(2) Within 24 hours after the initiation of the emergency excavation, or within 24 hours after the City's offices first open following the initiation of the emergency excavation, the owner shall apply for a permit for the emergency excavation in accordance with all other requirements of this article.

(Code 2004, § 90-490; Code 2015, § 24-464; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-465. Annual permit.

At any time after promulgating rules and regulations establishing a program for the issuance of annual permits, the Director may issue annual permits to owners upon receipt of a complete and appropriate application therefor. Such annual permits shall authorize the performance of routine or small-scale excavations outside of the Downtown Richmond Coordination Zone for a period of one year from the annual permit's date of issuance. The purpose and intent of this section is to authorize the Director to establish a streamlined procedure to enable owners to perform frequent routine or small-scale excavations in accordance with the conditions and requirements of this article related to the performance of excavations.

(Code 2004, § 90-491; Code 2015, § 24-465; Ord. No. 2005-113-55, § 1, 4-25-2005)

Secs. 24-466—24-483. Reserved.

DIVISION 4. CONDUCT OF EXCAVATIONS

Sec. 24-484. Standards.

Permittees shall perform all excavation work to the complete satisfaction of the Director. The Director shall promulgate rules and regulations setting forth such standards for excavation work as he deems appropriate. The determination of the Director as to the compliance of any excavation work with such standards shall be final.

(Code 2004, § 90-516; Code 2015, § 24-484; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-485. Inspections—Basic requirement.

All excavations shall be inspected as specified in the permit. Based upon the complexity and nature of the excavation, inspections may be required during the performance of the excavation, immediately upon completion of the excavation, or both. An inspector approved by the Director shall perform all inspections at the permittee's expense pursuant to rules and regulations promulgated by the Director. The permittee shall arrange for each required inspection, notify the Director of the date and time when each inspection will occur, and direct the inspector to furnish the Director with the written inspection results within the time limits set forth in the permit. Excavation work performed under the permit will not be considered complete until it has passed the final inspection required by the permit.

(Code 2004, § 90-517; Code 2015, § 24-485; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-486. Inspections—Additional requirements.

Consistent with applicable laws, sound engineering practices, and the nature of the excavation, the Director may, in addition to or in lieu of the inspections called for under Section 24-485, require that a permittee, at the permittee's expense, retain a professional engineer licensed in Virginia to observe the excavation and, based upon the engineer's observations, to provide written certification upon completion of the excavation stating that the public right-of-way has been restored in accordance with the drawings and specifications and all other applicable technical requirements.

(Code 2004, § 90-518; Code 2015, § 24-486; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-487. Inspections—Fees.

Each permittee shall pay to the City the minimum inspection fee of $50.00 for each opening in the public right-of-way allowed under the permit in order to compensate the City for the cost incurred in administering the inspection requirements of this division. In addition, each permittee shall pay to the City that portion of the actual cost of such inspection that exceeds the amount of such inspection fee. No inspection fees shall be collected from a permittee when:

(1) The permittee pays the City under a separate agreement pursuant to which the Department of Public Works manages and inspects the excavation work; or

(2) The excavation is to construct, replace, or repair a City-owned utility.

(Code 2004, § 90-519; Code 2015, § 24-487; Ord. No. 2005-205-173, §§ 4, 5, 7-25-2005)

Sec. 24-488. Inspections—Correction of defects.

(a) *Notification of Director.* The Director shall be notified prior to the time that the surfacing of the public right-of-way is replaced so that the work done preparatory to such surfacing may be inspected. The Director shall further be notified after the surfacing has been completed in order that the surfacing may be inspected.

(b) *Requirement to correct defect.* If any work performed pursuant to a permit issued under this article is not in accordance with the terms and conditions upon which the permit was issued or if a public right-of-way is not left in satisfactory condition, notice of such defect shall be given to the permittee. Such permittee shall be required to correct the condition within the time specified in the notice.

(c) *Failure to correct defect.* Upon receipt of a notice given under this section, should any permittee refuse or fail to correct the condition referred to in such notice within the specified time, the director may cancel the permit in question and cause the necessary work to be done, deducting the cost thereof from any financial guaranty required pursuant to Sections 24-462(a), 24-463(b) or otherwise as a condition for issuance of the permit.

(Code 2004, § 90-520; Code 2015, § 24-488; Ord. No. 2005-113-55, § 1, 4-25-2005; Ord. No. 2005-205-173, § 1, 7-25-2005)

Sec. 24-489. Damage to facility.

A permittee who, in connection with an excavation, damages another owner's facility shall immediately notify the Director and, to the extent that the owner's identity is reasonably determinable, the owner of the damaged facility.

(Code 2004, § 90-521; Code 2015, § 24-489; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-490. As-built drawings and specifications.

Upon final completion of an excavation, the permittee shall furnish the Director with a set of as-built drawings and specifications for the excavation, which shall be in a form prescribed by the rules and regulations promulgated by the Director under this article. If the excavation work was performed exactly in accordance with the drawings and specifications provided with the permit application, then the permittee may so advise the Director, and the previously supplied drawings and specifications will be regarded as the as-built drawings and specifications.

(Code 2004, § 90-522; Code 2015, § 24-490; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-491. Notice.

(a) *In general.* The permittee shall comply with all notice requirements for the excavation set forth in the rules and regulations promulgated by the Director.

(b) *Miss Utility.* The permittee shall comply with the requirements of utilities regarding notification of excavation and marking of subsurface facilities. Such permittee shall provide miss utility with the assigned number for the permit to excavate or other information as may be necessary to properly identify the proposed excavation.

(Code 2004, § 90-523; Code 2015, § 24-491; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-492. Restoration.

The Director shall promulgate rules and regulations setting forth technical requirements for the restoration of pavements following all excavations in the public right-of-way. All permittees shall comply with all such technical requirements to the complete satisfaction of the Director.

(Code 2004, § 90-524; Code 2015, § 24-492; Ord. No. 2005-113-55, § 1, 4-25-2005)

Secs. 24-493—24-522. Reserved.

DIVISION 5. POST-EXCAVATION REQUIREMENTS

Sec. 24-523. Obligation to maintain, repair or reconstruct.

Each owner that performs an excavation or causes an excavation to be performed in the public right-of-way shall maintain, repair or reconstruct the site of the excavation as necessary to maintain a condition satisfactory to the Director until such time as the City reconstructs, repaves or resurfaces the public right-of-way.

(Code 2004, § 90-546; Code 2015, § 24-523; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-524. Subsurface material or pavement failures.

In the event that subsurface material or pavement over or immediately adjacent to any excavation should become depressed or broken or should fail in any way at any time after the excavation has been completed, the Director shall reasonably determine the person or persons responsible, if any, for the failure in the subsurface material or pavement of the public right-of-way and shall designate such person or persons as the responsible party. The Director shall notify the responsible party in writing of the condition, its location, and the required remedy. The responsible party shall repair or restore such condition or cause such condition to be repaired or restored to the satisfaction of the Director within 72 hours of the Director's issuance of written notification. For good cause shown, the Director may extend the time for the responsible party to repair or restore the affected public right-of-way.

(Code 2004, § 90-547; Code 2015, § 24-524; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-525. Repair by City.

In the event that the responsible party fails, neglects, or refuses to repair or restore any condition pursuant to the Director's notice as described in Section 24-524, the Director may repair or restore such condition or cause such condition to be repaired or restored in such manner as the Director deems expedient and appropriate. The responsible party designated pursuant to Section 24-524 shall compensate and be liable to the City for all costs associated with the administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration or any other actual costs incurred by the City that were made necessary by reason of the repair or restoration undertaken by the City. The Director may use any financial guaranty furnished by the responsible party pursuant to Sections 24-462(a), 24-463(b) or otherwise to pay for such costs. Repair or restoration by the City shall not relieve the responsible party from the requirements of Section 24-524 for subsurface material or pavement failures that occur after such repair or restoration by the City. Action taken by the City pursuant to this section shall be in addition to any action that the City may take pursuant to Division 6 of this article.

(Code 2004, § 90-548; Code 2015, § 24-525; Ord. No. 2005-113-55, § 1, 4-25-2005; Ord. No. 2005-205-173, § 1, 7-25-2005)

Sec. 24-526. Emergency remediation.

(a) *Notice.* If the Director determines that the site of an excavation constitutes a hazard, a public nuisance, a public emergency or some other imminent threat to the public health, safety or welfare that requires immediate repair or restoration, the Director may order the condition repaired or restored by a written, electronic or facsimile notice to the responsible party designated pursuant to Section 24-524.

(b) *Failure of responsible party to act.* If the responsible party fails, neglects or refuses to take immediate

action to remedy the condition by the deadline specified in such communication, the Director may remedy the condition or cause the condition to be remedied in such manner as the Director deems expedient and appropriate. The responsible party shall compensate and be liable to the City for all costs associated with the administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration or any other actual costs incurred by the City that were made necessary by reason of the emergency remediation undertaken by the City pursuant to this subsection. The Director may use any financial guaranty furnished by the responsible party pursuant to Sections 24-462(a), 24-463(b) or otherwise to pay for such costs.

(c) *Remedy cumulative.* Remedy of the condition by the City in accordance with subsection (b) of this section shall not relieve the responsible party from the requirements of Section 24-524 for subsurface material or pavement failures that occur after such repair or restoration by the City. Action taken by the City pursuant to this section shall be in addition to any action that the City may take pursuant to Division 6 of this article.

(Code 2004, § 90-549; Code 2015, § 24-526; Ord. No. 2005-113-55, § 1, 4-25-2005; Ord. No. 2005-205-173, § 1, 7-25-2005)

Sec. 24-527. Removal, relocation, or alteration of facilities.

(a) This section applies to all facilities located in any public right-of-way and to all owners who possess such facilities.

(b) An owner shall remove, relocate or alter a facility if the Director reasonably determines that removal, relocation, or alteration of the facility is necessary for the construction, operation, repair, maintenance, or installation of a City or other governmental entity's facility.

(c) Subject to the requirements of this article, an owner shall remove, relocate or alter its facility within 120 days following the Director's issuance of written notice that removal, relocation, or alteration of the facility is necessary, unless the notice specifies a different length of time for the removal, relocation or alteration of the facility pursuant to subsection (d) of this section.

(d) An owner shall remove, relocate or alter its facility by the deadline specified in the Director's written notice that such removal, relocation or alteration is required:

(1) If the facility is located outside of its approved public right-of-way assignment; or

(2) The Director determines the action is reasonably necessary to abate an obstruction that poses an unreasonable risk to public health, safety or welfare.

(e) If an owner fails to remove, relocate or alter a facility by the deadline described in subsection (c) or (d) of this section, the City may remove, relocate or alter the facility at the owner's expense, and the owner shall pay all relocation and alteration expenses, including consequential damages, that result from locating a facility outside the assigned area.

(f) The owner shall furnish the Director with documentation of all removals, relocations and alterations of facilities pursuant to this section in a form prescribed by rules and regulations promulgated by the Director.

(Code 2004, § 90-550; Code 2015, § 24-527; Ord. No. 2005-113-55, § 1, 4-25-2005)

Secs. 24-528—24-547. Reserved.

DIVISION 6. ENFORCEMENT

Sec. 24-548. Stop work order.

If the Director determines that a person has violated this article or that an ongoing excavation at a site constitutes a hazard, a public nuisance, a public emergency or some other imminent threat to the public health, safety or welfare that requires immediate repair or restoration, the Director may issue a stop work order for the excavation at the site. It shall be unlawful for a person to continue any excavation activity at a site after the Director has issued a stop work order for that site.

(Code 2004, § 90-576; Code 2015, § 24-548; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-549. Suspension, modification and revocation.

After the Director has issued a stop work order, the Director shall review the violation or hazard, public

nuisance, public emergency or other imminent threat to the public health, safety or welfare and may thereafter suspend for a definite or indefinite time period, modify the conditions of or revoke the permit for the excavation at the site for which the Director issued the stop work order.

(Code 2004, § 90-577; Code 2015, § 24-549; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-550. Debarment.

(a) The Director shall not issue a permit to any person who is in default or breach of any obligation to the City under this article on a prior permit obligation arising therefrom. Further, the Director may, pursuant to rules and regulations promulgated by him setting forth debarment procedures, debar from obtaining a permit any person when that person:

(1) Has performed an excavation in the public right-of-way not authorized pursuant to this article or to a valid permit issued thereunder;

(2) On more than three occasions failed, neglected or refused to comply with quality requirements set forth in any rules or regulations promulgated pursuant to this article; or

(3) Caused or allowed either subsection (a)(1) or (2) of this section.

Any such debarment shall be for a reasonable period of time calculated according to a method set forth in the rules and regulations the director has promulgated to set forth debarment procedures.

(b) The Director shall furnish any person to be so debarred with written notice of such debarment.

(Code 2004, § 90-578; Code 2015, § 24-550; Ord. No. 2005-113-55, § 1, 4-25-2005)

Sec. 24-551. Compliance with article.

It shall be unlawful for any person to violate or to fail, refuse or neglect to comply with any section of this article. Except as otherwise provided in any section of this article, upon conviction, such person shall be punished for a Class 3 misdemeanor.

(Code 2004, § 90-579; Code 2015, § 24-551; Ord. No. 2005-113-55, § 1, 4-25-2005)

Secs. 24-552—24-580. Reserved.

ARTICLE VIII. RICHMOND SCENIC BYWAYS

Sec. 24-581. Findings and purpose.

(a) The Council recognizes that Richmond is a city of key historical significance to the Commonwealth.

(b) The Council finds that there are many streets and other public ways in the City that are themselves of historical, cultural, scenic, recreational, or environmental significance, or that offer access to areas of the City that are of historical, cultural, scenic, recreational, or environmental significance.

(c) The Council further finds that vehicular traffic in the City is increasing, and that such increased traffic may detract from recognition or enjoyment of the City's significant historical, cultural, scenic, recreational, or environmental features or locales.

(d) The Council accordingly declares that certain City streets and public ways may be designated, in accordance with the procedures specified in this article, as Richmond Scenic Byways, and accorded the protections specified in this article in order to enhance appreciation of, and access to, significant City historical, cultural, scenic, recreational, or environmental features or locales.

(Code 2004, § 90-600; Code 2015, § 24-581; Ord. No. 2007-85-59, § 1, 3-26-2007)

Sec. 24-582. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Richmond Scenic Byway means a street or public way that:

(1) Itself is of historical, cultural, scenic, recreational, or environmental significance, or leads to, or is located within, an area or areas of the City having historical, cultural, scenic, recreational, or environmental significance; and

(2) Is designated as a Richmond Scenic Byway by the City Council in accordance with the procedures specified in this article.

Streets and *public ways* shall have the meaning ascribed to them by Section 24-1.

(Code 2004, § 90-601; Code 2015, § 24-582; Ord. No. 2007-85-59, § 1, 3-26-2007)

Cross reference—Definitions generally, § 1-2.

Sec. 24-583. Criteria for designation as Richmond Scenic Byway.

(a) To be considered for designation as a Richmond Scenic Byway, a street or public way must meet at least four of the following six criteria:

(1) The route provides important scenic values and experiences.

(2) The route provides a diversity of scenic values and experiences, such as demonstrating clear transitions from one significant City historical, cultural, scenic, recreational, or environmental feature or locale to another.

(3) The route connects or provides access to significant City historical, cultural, scenic, recreational, or environmental features or locales.

(4) The route bypasses major roads or can be accessed by exits from higher-speed roads.

(5) The route can accommodate additional features that will enhance the driver's experience and improve driving safety.

(6) The City has implemented or initiated zoning controls, other land use controls, or traffic controls to assist in protecting the route's historical, cultural, scenic, recreational, or environmental value.

(b) An explanation of how and the extent to which a street or other public way meets one or more of the criteria in this section shall be included in the ordinance seeking designation of the street or other public way as a Richmond Scenic Byway pursuant to Section 24-584. The Council shall make the final determination, by its disposition of the ordinance introduced in accordance with Section 24-584, as to whether the street or public way meets the required criteria for designation as a Richmond Scenic Byway.

(Code 2004, § 90-602; Code 2015, § 24-583; Ord. No. 2007-85-59, § 1, 3-26-2007)

Sec. 24-584. Process for designation as a Richmond Scenic Byway.

A City street or other public way shall be designated as a Richmond Scenic Byway by ordinance that shall:

(1) Identify:

a. The source of the interest in the route's designation as a Richmond Scenic Byway;

b. The specific route to be designated as a Richmond Scenic Byway;

c. The criteria in Section 24-583 applicable to the route; and

d. Any zoning, other land use, or traffic controls necessary to facilitate or otherwise support the use or maintenance of the street or public way as a Richmond Scenic Byway; and

(2) Contain the necessary provisions for:

a. Placement of signage identifying the Richmond Scenic Byway; and

b. Any other actions necessary to facilitate or otherwise support the use or maintenance of the street or public way as a Richmond Scenic Byway.

Any ordinance adopted by the Council establishing a Richmond Scenic Byway shall be fully implemented no later than 180 days after adoption.

(Code 2004, § 90-603; Code 2015, § 24-584; Ord. No. 2007-85-59, § 1, 3-26-2007)

Sec. 24-585. Signage; zoning and land use controls; traffic controls.

(a) Signage identifying a Richmond Scenic Byway shall include a marker designating the beginning of the route, a marker designating the route's endpoint, and markers along the route identifying the route's progress. Such signage shall be developed by the Director of Planning and Development Review and submitted to the City Council.

(b) Zoning controls, other land use controls, or traffic controls may be used to facilitate or otherwise support the use or maintenance of a street or public way as a Richmond Scenic Byway. Such controls shall be initiated and implemented pursuant to the provisions contained in Section 2-428, Chapters 24, 27 and 30, and other applicable provisions of this Code and State law, except that the provisions of Section 13-62 shall not apply.

(Code 2004, § 90-604; Code 2015, § 24-585; Ord. No. 2007-85-59, § 1, 3-26-2007; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Chapter 25

SUBDIVISION OF LAND*

***Charter reference—**Planning, zoning and subdivision control, § 17.01 et seq.

Cross reference—Department of Planning and Development Review, § 2-455 et seq.; buildings and building regulations, Ch. 5; floodplain management, erosion and sediment control, and drainage, Ch. 14; subdivision requirements for floods, § 14-85; streets, sidewalks and public ways, Ch. 24; utilities, Ch. 28; zoning, Ch. 30.

State law reference—Authority of City to regulate subdivision of land, Code of Virginia, § 15.2-2240 et seq.

ARTICLE I. IN GENERAL

Sec. 25-1. Purpose.

The purpose of this chapter is to:

(1) Adopt comprehensive subdivision regulations designed to promote public health, safety and welfare;

(2) Improve the orderly layout and use of land;

(3) Avoid undue concentration of population and overcrowding of land;

(4) Lessen congestion in streets and highways;

(5) Provide for proper ingress and egress;

(6) Ensure proper legal description and monumenting of subdivided land;

(7) Provide for adequate light and air;

(8) Provide for transportation, water, sewage facilities, drainage, schools, parks, playgrounds and other public needs;

(9) Increase safety from fire, flood and other dangers;

(10) Facilitate proper resubdivision of lots or parcels of land;

(11) Protect and improve the water quality of the Chesapeake Bay and its tributaries; and

(12) Promote development in accordance with the comprehensive plan, pursuant to Code of Virginia, Title 15.2, Ch. 22, Art. 6 (Code of Virginia, § 15.2-2240 et seq.).

(Code 1993, § 26-1; Code 2004, § 94-1; Code 2015, § 25-1)

Sec. 25-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public way designed primarily for vehicular travel to provide access to or from the rear or side of property abutting on a street.

Chesapeake Bay Preservation Areas means those areas so designated pursuant to Chapter 14, Article IV.

Commission means the City Planning Commission or its representative duly authorized by it to approve the final plat of a subdivision.

Expressway means a public way to which access is limited or controlled, designed for vehicular travel through, around and between urban areas.

Intersection means the area embraced within the prolongation of the lateral boundary lines of two or more streets which join one another at an angle, whether or not one such street crosses the other.

Lot means a numbered and recorded portion of a subdivision intended for transfer of ownership or for building development, or a parcel of land which has been recorded in the office of the clerk of the appropriate court.

Major street means a public way affording direct access to and from abutting property, designed for vehicular

travel through, around and between urban areas in a right-of-way of sufficient width to provide six traffic lanes.

Master plan means the master plan defined in Sections 17.01 and 17.04 of the Charter adopted, amended, extended or added to pursuant to Section 17.06 of the Charter.

Minor street means a public way affording direct access to and from abutting property, designed primarily for that purpose.

Parkway means a public way to which light, air and access is limited or controlled, designed for vehicular travel.

Primary highway means a major street.

Secondary street means a public way, affording direct access to and from abutting property, designed for vehicular travel between major streets or primary highways in a right-of-way of sufficient width to provide four traffic lanes.

Street means every way or place, other than alleys, of whatsoever nature designed for the use of the public for the purposes of vehicular and pedestrian travel, including shoulders and sidewalks, major streets, primary highways, minor streets, secondary streets and parkways, but not including expressways and toll roads.

Subdivide means the process of dealing with land so as to establish a subdivision.

Subdivider means the person holding legal title to land and who subdivides it.

Subdivision means a division, subdivision or resubdivision of a lot, tract or parcel of land situated wholly or partly within the corporate City limits into three or more lots, tracts or parcels of land for the purpose, whether immediate or in the future, of transferring ownership of any one or more of such lots, tracts or parcels of land or for the purpose of the erection of buildings or other structures on any one or more of such lots, tracts or parcels of land. The term "subdivision" does not include a division of land for agricultural purposes in parcels of one acre or more, the average width of which is not less than 150 feet, when such division does not:

(1) Require the opening of any new street or the use of any new public easement of access;

(2) Obstruct or is not likely to obstruct natural drainage;

(3) Adversely affect or is not likely to adversely affect the establishment of any expressway, major street, primary highway or toll road; or

(4) Adversely affect the execution or development of any plat or subdivision approved by the Commission or otherwise adversely affect the orderly subdivision of contiguous property.

Toll road means an expressway to which access thereto is conditioned upon the payment of toll.

Zoning law means Chapter 30, as amended, concerning the division of the City into zones or districts and regulating the use of lands and buildings therein, as such chapter exists on the effective date of the ordinance from which this Code is derived or as the chapter may be thereafter amended or modified.

(Code 1993, § 26-1.1; Code 2004, § 94-2; Code 2015, § 25-2; Ord. No. 2004-332-322, § 1, 12-13-2004)

Cross reference—Definitions generally, § 1-2.

Sec. 25-3. Penalty for violation of chapter.

It shall be unlawful to subdivide any lot, tract or parcel of land lying wholly or partly in the City in violation of the regulations and restrictions of this chapter, and every subdivider who violates such regulations and restrictions shall be subject to a fine of not exceeding $500.00 for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided.

(Code 1993, § 26-7; Code 2004, § 94-3; Code 2015, § 25-3)

Sec. 25-4. Preparation and submission of plats to Commission.

Every subdivider shall cause a plat of the subdivision to be prepared in accordance with the regulations and

restrictions of this chapter and shall submit it to the Commission for its approval.

(Code 1993, § 26-3; Code 2004, § 94-4; Code 2015, § 25-4)

Sec. 25-5. Relocation or vacation of boundary lines.

The boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision:

(1) Approved as provided in this chapter; or

(2) Properly recorded prior to the applicability of this chapter;

and executed by the owner of the land as provided in general law. Any vacation, relocation or alteration shall not conflict with the requirements of Chapter 30.

(Code 1993, § 26-3.1; Code 2004, § 94-5; Code 2015, § 25-5)

Sec. 25-6. Restrictions on division or subdivision of lots, tracts or parcels subject to inundation.

No lot, tract or parcel of land or any part thereof subject to inundation shall be divided or subdivided for the use of buildings or structures erected thereon for dwelling or residential purposes.

(Code 1993, § 26-4; Code 2004, § 94-6; Code 2015, § 25-6)

Sec. 25-7. Restrictions on division or subdivision of lots within Chesapeake Bay Preservation Areas.

Subdividers shall submit a Chesapeake Bay Site Plan, in accordance with the requirements of Chapter 14, Article IV, for any subdivision that includes any land within a Chesapeake Bay Preservation Area. The Chesapeake Bay Site Plan shall comply with all requirements of Chapter 14. No subdivision shall be approved until the Chesapeake Bay Administrator has certified that all lots within the subdivision can meet all requirements pertaining to Chesapeake Bay Preservation Areas. The final plat shall identify the nature and extent of all Chesapeake Bay Preservation Areas.

(Code 1993, § 26-5; Code 2004, § 94-7; Code 2015, § 25-7; Ord. No. 2004-332-322, § 1, 12-13-2004)

Sec. 25-8. Submission of preliminary information to Commission prior to beginning work; approval of plats upon full compliance with chapter.

(a) Subdividers shall submit to the Commission preliminary plats of subdivisions for tentative approval by the Commission prior to the submission of plats intended for recording containing more than 50 lots, provided that the landowner may submit for approval a tentative plat involving 50 of fewer lots. Plats intended for recording shall be considered final plats and shall be subject to Article IV of this chapter. Preliminary plats submitted for tentative approval shall be in such form and shall contain such information as required by the Commission. The Commission may grant tentative approval of preliminary plats of subdivisions conditioned upon full compliance with the regulations and restrictions of this chapter. Tentative approvals of preliminary plats and extensions of tentative approvals shall be subject to the conditions imposed by this section.

(b) Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider submits a final subdivision plat for all or for a portion of the property within one year of such approval and thereafter diligently pursues approval of the final subdivision plat. For purposes of this subsection, the term "diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval and upon 90 days' written notice by certified mail to the subdivider, the Commission may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(Code 1993, § 26-6; Code 2004, § 94-8; Code 2015, § 25-8)

State law reference—Preliminary plats authorized, Code of Virginia, § 15.2-2260.

Sec. 25-9. Variations and exceptions.

The Commission may grant variations in the application of the sections of this chapter when:

(1) A subdivider can show that, by reason of exceptional topographic conditions or other extraordinary or

exceptional circumstances or conditions, the strict application of the sections of this chapter actually prohibit or unreasonably restrict the use of the property; or

(2) The Commission is satisfied, upon the evidence presented to it, that strict adherence to the general regulations would result in substantial injustice or hardship.

(Code 1993, § 26-8; Code 2004, § 94-9; Code 2015, § 25-9)

State law reference—Provisions for variance authorized, Code of Virginia, § 15.2-2242.

Sec. 25-10. Fees.

A fee in accordance with the schedule as set forth in this section shall accompany each application for approval or extension of approval of a subdivision plat, which fee shall be paid into the City treasury.

(1)	Tentative plat approval	$500.00
	Plus, for each lot within the plat	$15.00
(2)	Extension of tentative approval	$150.00
(3)	Final plat approval	$500.00
	Plus, for each lot within the plat	$15.00
(4)	Each request for a subdivision confirmation letter	$100.00
(5)	Continuance. There shall be no charge for the first such continuance requested by the applicant. There shall be no charge for a continuance requested by the Planning Commission. Fee for the second or subsequent continuance requested by the applicant	$50.00
(6)	Plat of correction	$100.00

(Code 1993, § 26-9; Code 2004, § 94-10; Code 2015, § 25-10; Ord. No. 2007-54-121, § 1, 5-29-2007; Ord. No. 2010-237-2011-16, § 1, 1-24-2011)

Sec. 25-11. Subdivisions pursuant to the City's affordable dwelling unit program.

The following shall apply in the case of a subdivision to be developed pursuant to the affordable dwelling unit program set forth in Chapter 30.

(1) Lots intended for affordable dwelling units shall be so designated on the preliminary and final subdivision plats.

(2) No preliminary or final subdivision plat shall be approved until the Director of Planning and Development Review has certified in writing to the Secretary of the Commission that the applicable affordable dwelling unit program criteria are met.

(Code 2004, § 94-11; Code 2015, § 25-11; Ord. No. 2007-201-192, § 1, 9-10-2007; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Secs. 25-12—25-40. Reserved.

ARTICLE II. DESIGN STANDARDS

DIVISION 1. GENERALLY

Sec. 25-41. Easements for installation of utility facilities and drainage purposes.

(a) Easements across lots or easements centered on rear or side lot lines shall be provided in a subdivision when necessary for the installation of utilities and for surface and subsurface water drainage purposes whenever necessary to provide such services in the subdivision or in the areas beyond its boundaries. They shall be at least 12 feet in width. However, when an easement is for surface drainage only, it need be of no greater width than, in the judgment of the City, the drainage area requires.

(b) Whenever a subdivision is traversed by a way or place, the origin of which is the result of the forces of

nature, having a bed, sides or banks through which water flows continuously or intermittently in a particular direction, and whenever a subdivision is traversed by any other way, place or device installed to aid natural drainage and which does not substantially change the course or direction of the flow of water, there shall be provided an easement conforming substantially with the boundaries of such way, place or device, together with the right to use such additional land abutting thereon as is necessary to maintain such way, place or device for the unobstructed flow of water therein.

(Code 1993, § 26-41; Code 2004, § 94-41; Code 2015, § 25-41)

Sec. 25-42. Inclusion and dedication of land for improvements.

Land in a proposed subdivision shown in the master plan as needed for streets, curbs, gutters, sidewalks, bicycle trails, drainage or sewer system or other improvements shall be included in the plat of the subdivision and shall be dedicated for such public use upon the approval and recordation of the subdivision plat.

(Code 1993, § 26-49; Code 2004, § 94-42; Code 2015, § 25-42)

Secs. 25-43—25-72. Reserved.

DIVISION 2. STREETS AND ALLEYS*

***Cross reference—**Streets, sidewalks and public ways, Ch. 24.

State law reference—Provisions for streets required, Code of Virginia, § 15.2-2241(a)(4).

Subdivision I. In General

Sec. 25-73. Width of streets.

The right-of-way width of subdivision streets shall be as shown in the master plan. If the right-of-way width of any street is not shown in the master plan, it shall be not less than 50 feet in width.

(Code 1993, § 26-32; Code 2004, § 94-71; Code 2015, § 25-73)

Sec. 25-74. Street names.

No street in a subdivision shall bear a name the same as or similar to the name of a street in the City or in any county adjoining the City or bear a name that is likely to cause confusion between the names of such streets. Extensions of existing streets shall bear the name of the existing streets.

(Code 1993, § 26-35; Code 2004, § 94-72; Code 2015, § 25-74)

Secs. 25-75—25-91. Reserved.

Subdivision II. Location, Alignment and Arrangement of Streets

Sec. 25-92. Relationship to existing streets and to master plan.

The location, alignment and arrangement of streets in a subdivision with relation to other existing or planned streets and to streets shown in the master plan shall be as shown in the master plan.

(Code 1993, § 26-21; Code 2004, § 94-91; Code 2015, § 25-92)

Sec. 25-93. Procedure when not shown in master plan.

If the location, alignment or arrangement of any street in a subdivision is not shown in the master plan, the location, alignment or arrangement of such street shall correspond substantially with the location, alignment or arrangement of existing streets abutting the subdivision.

(Code 1993, § 26-22; Code 2004, § 94-92; Code 2015, § 25-93)

Sec. 25-94. Subdivisions abutting expressway, parkway or toll road.

Whenever a subdivision abuts an expressway, parkway or toll road shown in the master plan, the Commission shall require a street to be located parallel or nearly parallel to and on each side of such expressway, parkway or toll road at such distance therefrom as will allow the land between the expressway, parkway or toll road to be devoted to some reasonable use. Such distance shall be determined by the Commission. In making such

determination, the Commission shall consider the need for such street for access to or from the expressway, parkway or toll road or for the separation of grades, should such separation become necessary for the operation of the expressway, parkway or toll road.

(Code 1993, § 26-23; Code 2004, § 94-93; Code 2015, § 25-94)

Sec. 25-95. Reservation or control of land for prohibiting access.

No land shall be reserved, held or controlled for the purpose of prohibiting access to streets unless owned, held or controlled exclusively by the City.

(Code 1993, § 26-24; Code 2004, § 94-94; Code 2015, § 25-95)

Sec. 25-96. Centerlines not connecting with other streets.

Whenever a street in a subdivision cannot be located, aligned or arranged to connect with another street, extending in the same or substantially the same general direction, the centerlines shall be not less than 150 feet apart.

(Code 1993, § 26-25; Code 2004, § 94-95; Code 2015, § 25-96)

Sec. 25-97. Separation of curves in major or secondary streets.

Curves in major streets or secondary streets in a subdivision extending in opposite directions, the radius of either of which is less than 6,000 feet, shall be separated by a tangent of at least 100 feet in length.

(Code 1993, § 26-26; Code 2004, § 94-96; Code 2015, § 25-97)

Sec. 25-98. Sight distances from motor vehicles in tangents in secondary and major streets.

Whenever consecutive tangents in secondary streets in a subdivision deflect from each other at one point by more than ten degrees, they shall be connected by a curve with a radius sufficient to ensure sight distance from motor vehicles within the right-of-way of such streets of not less than 300 feet. Whenever such tangents are in major streets, such sight distance shall be not less than 500 feet.

(Code 1993, § 26-27; Code 2004, § 94-97; Code 2015, § 25-98)

Sec. 25-99. Intersection at right angles.

Subdivision streets shall be located, aligned or arranged so as to intersect streets at right angles as nearly as possible.

(Code 1993, § 26-28; Code 2004, § 94-98; Code 2015, § 25-99)

Sec. 25-100. Rounding of property lines at intersections.

Property lines at street intersections in a subdivision shall be rounded with a curve of sufficient radius to permit the easy turning movement of vehicles, where deemed necessary by the Commission.

(Code 1993, § 26-29; Code 2004, § 94-99; Code 2015, § 25-100)

Sec. 25-101. Full width required.

No street in a subdivision shall be located, aligned or arranged at less than the full width required by or pursuant to the regulations and restrictions set out in this chapter.

(Code 1993, § 26-30; Code 2004, § 94-100; Code 2015, § 25-101)

Sec. 25-102. Length and area of termini.

In a subdivision, streets whose termini do not permanently connect with other streets shall not exceed 400 feet in length, unless, on account of topographical or other conditions, in the judgment of the Commission, a greater length is desirable. Sufficient area shall be provided at such termini as to permit the easy and complete turning around of vehicles, the diameter of which shall be at least 80 feet. Such area shall be provided for such temporary use at the termini of such streets which temporarily do not connect with other streets.

(Code 1993, § 26-31; Code 2004, § 94-101; Code 2015, § 25-102)

Secs. 25-103—25-156. Reserved.

Subdivision III. Grades of Streets

Sec. 25-157. Maximum ascent or descent.

The rate of ascent or descent of a major street in a subdivision shall not be in excess of five percent, and that of a minor street shall not be in excess of ten percent, unless, due to topography or other physical circumstances and conditions, a greater rate of ascent or descent is necessary for the use of the street, in the judgment of the Director of Public Works. If a greater rate of ascent or descent is necessary, such rate of ascent or descent shall not be in excess of that which will permit the reasonably safe use of the street by pedestrians and vehicles.

(Code 1993, § 26-33; Code 2004, § 94-121; Code 2015, § 25-157)

Sec. 25-158. Minimum ascent or descent.

No street in a subdivision shall be constructed with a rate of ascent or descent of less than four-tenths of one percent, unless approved by the Director of Public Works, who shall approve such construction when the Director is satisfied that such rate of ascent or descent will not cause water to stand in the street or on adjoining property.

(Code 1993, § 26-34; Code 2004, § 94-122; Code 2015, § 25-158)

Secs. 25-159—25-184. Reserved.

Subdivision IV. Alleys

Sec. 25-185. Required for access to property and loading and unloading of vehicles.

For a subdivision, alleys shall be provided in business, commercial, industrial and transitional districts, as such districts are defined and set apart in or pursuant to Chapter 30, whenever they are necessary to provide access to property in such districts and to enable vehicles to be loaded or unloaded. Whenever adequate provision is made for the loading or unloading or parking of vehicles on private property in such districts, alleys need not be provided.

(Code 1993, § 26-36; Code 2004, § 94-141; Code 2015, § 25-185)

Sec. 25-186. Width and grade.

The width and grade of alleys in business, commercial, industrial and transitional districts, when required as provided in Section 25-185, shall be such as to permit the convenient and expeditious loading and unloading of vehicles, without interfering with the reasonable and convenient use of any portion of them by others for the same purpose and for the convenient and expeditious movement of vehicles therein. In no event shall the width of any such alley be less than 20 feet.

(Code 1993, § 26-37; Code 2004, § 94-142; Code 2015, § 25-186)

Sec. 25-187. Location at rear or side of lots in dwelling districts.

Alleys shall be provided in a subdivision, when practicable, at the rear or side of lots in dwelling districts defined and set apart in or pursuant to Chapter 30. In no event shall the width of any such alley be less than 16 feet, and its grade shall be such as to afford easy access to the property it is intended to serve.

(Code 1993, § 26-38; Code 2004, § 94-143; Code 2015, § 25-187)

Sec. 25-188. Arrangement of corners at intersections.

The corners of alleys at intersections in a subdivision shall be arranged so as to permit the easy, convenient and safe movement of vehicles into and out of the alleys without interference with other vehicles using the alleys and streets.

(Code 1993, § 26-39; Code 2004, § 94-144; Code 2015, § 25-188)

Sec. 25-189. Area of termini.

At the termini of alleys which do not permanently connect with streets or other alleys in a subdivision, a sufficient area shall be provided so as to permit the easy and complete turning around of vehicles, the diameter of which shall be at least 50 feet.

(Code 1993, § 26-40; Code 2004, § 94-145; Code 2015, § 25-189)

Secs. 25-190—25-216. Reserved.

DIVISION 3. LOTS

Sec. 25-217. Length of blocks of land in which located.

For a subdivision, a block of land in which lots are located shall not exceed 1,320 feet in length between intersecting streets and shall not be less than 400 feet in length between intersecting streets along a street on which the lots front, except where, because of topography or other physical circumstances or conditions, a greater or lesser number of front feet is deemed advisable, in which event the length of the block may be increased or decreased accordingly.

(Code 1993, § 26-42; Code 2004, § 94-171; Code 2015, § 25-217)

Sec. 25-218. Conformance with zoning in dwelling districts; connection of dwellings to sewers.

The area of lots in dwelling districts established by or pursuant to Chapter 30 shall conform to the requirements of such chapter. However, where it is not practicable to connect dwellings erected on such lots with a public sewer, the appropriate City departments shall be responsible for approving drainfields, and where a lot is located within a Chesapeake Bay Preservation Area, the subject on-site sewage treatment system shall meet the requirements of the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830-10 et seq.).

(Code 1993, § 26-43; Code 2004, § 94-172; Code 2015, § 25-218)

Sec. 25-219. Depth in dwelling districts established pursuant to zoning law.

Lots in dwelling districts established by or pursuant to Chapter 30 shall have an average depth of not less than 100 feet. For the purposes of this chapter, the term "average lot depth" shall be defined to require that a minimum of 50 percent of the width of a lot have a corresponding lot depth of not less than 100 feet. The width of a lot shall be measured at the required setback line as established by Chapter 30.

(Code 1993, § 26-44; Code 2004, § 94-173; Code 2015, § 25-219)

Sec. 25-220. Frontage on public streets in dwelling districts.

Other sections of this chapter notwithstanding, lots may have their frontage on private streets which connect with improved public streets when such private street frontage is authorized by the zoning sections of this Code or is authorized by a special use permit or a community unit plan adopted by City Council, provided that:

(1) Appropriate covenants and agreements ensuring that such private streets will be maintained in perpetuity and will continue to be available as access to and from all lots fronting thereon are approved as to form by the City Attorney and filed with the City Clerk, together with written opinions by the subdivider and the subdivider's legal counsel that the form and substance of such documents satisfy the terms of this section; and

(2) The width, design and character of such private streets are approved by the Planning Commission after receiving the recommendations of the Director of Public Works, the Director of Planning and Development Review, the Chief of Police and the Chief of Fire and Emergency Services.

(Code 1993, § 26-46; Code 2004, § 94-174; Code 2015, § 25-220; Ord. No. 2009-220-2010-8, § 2, 1-25-2010)

Sec. 25-221. Frontage on more than one street in dwelling district.

No lot in a dwelling district established by or pursuant to Chapter 30 shall be located or arranged so that its frontage is on more than one street, except where:

(1) It is necessary in order to separate a lot in a dwelling district established by or pursuant to Chapter 30 from an expressway or toll road; or

(2) The topography is such that the lot frontage on more than one street is necessary in order to make use of the land.

(Code 1993, § 26-47; Code 2004, § 94-175; Code 2015, § 25-221)

Sec. 25-222. Easements along side or rear in dwelling districts abutting expressway or toll road.

An easement at least ten feet in width, across which there shall be no right of access to or from subdivision lots, shall be provided along the side or rear of lots in dwelling districts established by or pursuant to Chapter 30 which abut an expressway or toll road. The easement shall be used for the cultivation of trees, shrubs or other vegetation of such character as will lessen the adverse effect of the movement of vehicles over such expressway or toll road upon the use of land for dwelling purposes.

(Code 1993, § 26-48; Code 2004, § 94-176; Code 2015, § 25-222)

Secs. 25-223—25-252. Reserved.

ARTICLE III. REQUIRED IMPROVEMENTS*

***State law reference—**Provisions relative to the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed required, Code of Virginia, § 15.2-2241(A)(4).

Sec. 25-253. Monuments.

Monuments shall be installed in all subdivisions at the corners of all blocks, at angle points, at radial points of curves in streets and at all intermediate points along the street or boundary lines where monuments cannot be readily seen one from the other. The exact location of such monuments shall be approved by the Director of Public Works. They shall be either concrete blocks at least 20 inches long and six inches square with an iron corner or shall be granite stones with sharp well-defined corners of the same dimensions and shall be installed to approved grades where practicable.

(Code 1993, § 26-61; Code 2004, § 94-211; Code 2015, § 25-253)

State law reference—Provisions for monuments required, Code of Virginia, § 15.2-2241(A)(7).

Sec. 25-254. Grading and surfacing of streets and alleys.

The streets and alleys shown on the subdivision plat shall be graded to their full width and length, and an all-weather surface shall be placed on the roadway of each such street, all of which shall be done in accordance with the standard street and alley specifications of the City.

(Code 1993, § 26-62; Code 2004, § 94-212; Code 2015, § 25-254)

Cross reference—Streets, sidewalks and public ways, Ch. 24.

Sec. 25-255. Curbs, gutters and sidewalks.

Curbs, gutters and sidewalks shall be installed on both sides of streets lying within the subdivision; if an existing street abuts the subdivision, the subdivider shall install curbs, gutters and sidewalks on the side of the existing street that abuts the subdivision, if curbs, gutters and sidewalks already installed do not conform to the City's standard curb, gutter and sidewalk specifications or if there are no curbs, gutters and sidewalks. All curbs, gutters and sidewalks installed under the requirements of this section shall conform in all respects with the standard curb, gutter and sidewalk specifications of the City.

(Code 1993, § 26-63; Code 2004, § 94-213; Code 2015, § 25-255)

Sec. 25-256. Stormwater sewers or drainage systems.

A stormwater sewer or drainage system adequate to serve the subdivision and the contributing drainage area in its vicinity shall be installed in the subdivision in accordance with the standard stormwater and drainage system specifications of the City.

(Code 1993, § 26-64; Code 2004, § 94-214; Code 2015, § 25-256)

Cross reference—Stormwater, § 28-907 et seq.

Sec. 25-257. Water distribution system; fire hydrants.

A water distribution system, including fire hydrants, adequate to furnish water to consumers in the subdivision and for fire protection therein shall be installed in the subdivision in accordance with the standard water distribution

system and fire hydrant specifications of the City.

(Code 1993, § 26-65; Code 2004, § 94-215; Code 2015, § 25-257)

Cross reference—Fire prevention and protection, Ch. 13; water, § 28-232 et seq.

Sec. 25-258. Sanitary sewage disposal system.

A sanitary sewage disposal system adequate to supply the needs of occupants of lots in the subdivision shall be installed therein in accordance with the standard sanitary sewage disposal specifications of the City when any part of the existing sewage disposal system of the City is accessible and it is practicable to connect such sewage disposal system thereto. Whenever no part of the existing sewage disposal systems of the City is accessible or it is not practicable to connect such sewage disposal system thereto, provision shall be made for the disposal of sanitary sewage through a sewage treatment plant or facilities upon the following conditions:

(1) The soil, topography and other conditions are such that, in the opinion of the Director of Public Works and the District Health Director, the disposal of sanitary sewage from lots in the subdivision can be done through percolation in the ground without impairing the public health.

(2) Such plant and facilities and equipment shall be installed to provide for such sewage disposal as shall be approved by the appropriate City departments.

(Code 1993, § 26-66; Code 2004, § 94-216; Code 2015, § 25-258)

Cross reference—Sewers, § 28-577 et seq.

Sec. 25-259. Location of sewers, gas and water distribution facilities, electric power, cable television and telephone service.

All sewers, gas and water distribution facilities and all facilities to furnish electric power, cable television, and telephone service installed in a subdivision shall be located underground in such places as designated by the Directors of Public Works and Public Utilities.

(Code 1993, § 26-67; Code 2004, § 94-217; Code 2015, § 25-259)

Sec. 25-260. Cost of constructing improvements.

(a) The subdivider shall bear the total cost of constructing or installing streets, alleys, curbs and gutters, sanitary sewers and water distribution systems, including fire hydrants, within the limits of the subdivision. However, if the City shall contract with the subdivider with regard to any of the following, the cost of such shall be borne as set out:

(1) For streets in excess of 66 feet in width, the City will pay the additional cost as determined by the Director of Public Works.

(2) For alleys in excess of 20 feet in width, the City will pay the additional cost as determined by the Director of Public Works.

(3) For sanitary sewers of a larger size than the standard size as required for the proposed development within the limits of the subdivision, the City will pay the additional cost of sewers larger than such standard size as determined by the Director of Public Works.

(4) For water mains larger than the standard size as would be required for the proposed development within the limits of the subdivision, the City will pay the additional cost for water mains in excess of such standard size as determined by the Director of Public Utilities.

(b) The City shall bear the total cost of constructing or installing stormwater sewers, drains or other drainage facilities; street name signs; and that portion of the cost of streetlights which may exceed any allowance made by the utility company, provided funds for such extensions and improvements are available for such purposes.

(c) When conditions require the extension of a street, alley, curb and gutter, sanitary sewer or water main or any of them from such existing improvements to the outer limits of the subdivision, the developer may construct the extensions at the developer's entire cost or may, provided funds for the City's portion of such cost are available, enter into a written contract with the City providing for the following:

(1) The developer shall pay the City the estimated cost of standard size facilities required to serve the subdivision.

(2) The City shall construct the extensions and shall pay the cost of the sizes in excess of standard size as determined in subsection (a) of this section.

(3) Upon the completion of such work, if it is determined that the estimated cost paid by the developer to the City exceeds the actual cost chargeable to the developer, the City will refund such excess payment to the owner; if it is found that the estimated cost paid by the developer is less than the actual cost chargeable to the developer, the developer will pay such deficit to the City.

(4) During the period of ten years following the signing of the contract, the City will refund to the developer an amount equal to the actual cost of extending 50 feet of sanitary sewer for each service connection to the sewer extension, and the City will refund to the developer an amount equal to the actual cost in extending 50 feet of water main for each water service connection made to the water main extension. No refund shall be made in excess of the sum paid to the City for the extension of the sanitary sewer or for the water main.

(Code 1993, § 26-68; Code 2004, § 94-218; Code 2015, § 25-260)

Sec. 25-261. Methods of paying for improvements.

(a) The subdivider shall install all required improvements in a manner which shall meet all City specifications and which shall have City inspection and approval prior to the approval of the final plat.

(b) The subdivider shall enter into a contract with the City agreeing to install all required improvements in a manner which shall meet all City specifications and shall have City inspection and approval and shall furnish to the City a bond with corporate surety in a sum equal to the subdivider's portion of the cost of installing all required improvements as estimated by the City, ensuring that all of the work will be completed within two years. In lieu of such bond, the subdivider may deposit in escrow money or securities, acceptable to the Director of Finance, equal to the estimated amount of the subdivider's portion of the cost of such improvements.

(c) In lieu of subsections (a) and (b) of this section, the subdivider may request the City to install all improvements as required by depositing with the City in advance the entire estimated amount of the subdivider's portion of the cost of improvements. Upon the completion of such work, if it is found that such estimated cost exceeds the actual cost, the City will refund such excess to the subdivider; if it is found that such estimated cost is less than the actual cost, the subdivider will pay such deficit to the City.

(d) The City will be bound under any contract only to the extent of funds available or which may become available for such improvements in the City contract.

(e) Any requests and approvals for partial or final release of performance guarantees will be processed in accordance with general law.

(Code 1993, § 26-69; Code 2004, § 94-219; Code 2015, § 25-261)

Sec. 25-262. Conditions governing installation of improvements generally.

(a) *Competitive bids.* Bona fide competitive bids are mandatory in all items of City participation in subdivisions.

(b) *Preliminary plans and estimates.* Detailed preliminary estimates along with preliminary plans prepared in sufficient detail by a qualified engineer to fully support the estimates shall be submitted to the City and approved by the Chief Administrative Officer or his or her designee, by the subdivider, and certified to by a certified professional engineer as a basis for a contract between the City and the subdivider under Section 25-260. The Chief Administrative Officer or his or her designee reserves the right to review, revise, approve or disapprove such estimates or plans.

(c) *Standards of design.* The design of all facilities shall be in accordance with recognized sound engineering practice and the current standards, specifications and policies of the City and shall be approved by the Chief Administrative Officer or his or her designee.

(d) *Standards of construction.* The construction of all facilities shall be in accordance with recognized sound

engineering practice and the current standards, specifications and policies of the City and shall be approved by the Chief Administrative Officer or his or her designee. The subdivider shall not enter into a contract for construction until the proposed contract is approved by the Chief Administrative Officer or his or her designee.

(e) *Notice of construction.* The subdivider shall give written notice to the Chief Administrative Officer or his or her designee at least ten days in advance of the actual beginning of construction.

(Code 1993, § 26-70; Code 2004, § 94-220; Code 2015, § 25-262; Ord. No. 2004-360-330, § 1, 12-13-2004)

Secs. 25-263—25-287. Reserved.

ARTICLE IV. PLATS*

***State law reference—**Provisions for plat details required, Code of Virginia, § 15.2-2241(A)(1).

Sec. 25-288. Preparation by engineers or surveyors.

Every subdivision plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, who shall endorse upon each such plat a certificate signed by such person setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat. However, nothing herein shall be deemed to prohibit the preparation of preliminary studies, plans or plats of a proposed subdivision by the owner of the land, City planners, land planners, architects, landscape architects or others having training or experience in subdivision planning or design.

(Code 1993, § 26-81; Code 2004, § 94-251; Code 2015, § 25-288)

State law reference—Similar provisions, Code of Virginia, § 15.2-2262.

Sec. 25-289. Legibility, dimensions and scale.

Plats of subdivisions shall be clearly and legibly drawn in black lines with India ink. The dimensions of each sheet shall be 16 inches by 24 inches and shall include a margin of one-half inch outside of ruled border lines at the bottom and right side of the 16-inch end and a margin of 1 1/2 inches on the left side and at the top of the sheet. The plat of a subdivision shall be drawn to the scale of one inch equal to 100 feet, unless otherwise authorized by the Commission.

(Code 1993, § 26-82; Code 2004, § 94-252; Code 2015, § 25-289)

Sec. 25-290. Submission for approval; disposition of copies after approval.

Two opaque Mylar prints and one transparent Mylar of the subdivision plat shall be submitted to the Commission for approval after it has been duly executed and acknowledged by the subdivider. After the Commission has approved the plat, one opaque Mylar print shall be returned to the subdivider for recordation, and the other opaque Mylar print and the transparent copy shall be retained by the Commission.

(Code 1993, § 26-83; Code 2004, § 94-253; Code 2015, § 25-290)

Sec. 25-291. Index sheet; sketches of area in vicinity of subdivisions.

When the plat of a subdivision consists of more than one sheet, an index sheet of the same size as the sheets comprising the plat may be required by the Commission showing thereon the entire subdivision. A sketch of the area in the vicinity of the subdivision on a small scale may be required to be shown on the plat by the Commission.

(Code 1993, § 26-84; Code 2004, § 94-254; Code 2015, § 25-291)

Sec. 25-292. Contents.

The plat of a subdivision shall contain the following:

(1) The boundaries of the subdivision, showing the length of its courses and distances to hundredths of a foot and bearings to half minutes, having been determined by an accurate survey thereof in the field, which shall close with an error of closure not exceeding one foot in 10,000 feet;

(2) Accurate coordinates of selected or monumented points referred to in the City geodetic survey system when the geodetic survey control has been completed. The error of closure referred to in this section

shall be adjusted before the coordinates are computed;

(3) The exact location, alignment and width along property lines of all streets, whether opened or not, intersecting or paralleling the boundaries of the subdivision;

(4) The exact location and character of all monuments;

(5) The exact location, alignment or arrangement of street and alley lines in the subdivision; the names of all streets; the bearing, angles of intersection and width thereof, including their width along the line of any obliquely intersecting street;

(6) The lengths of arcs and radii and tangent bearings;

(7) The exact location, alignment or arrangement of all easements provided for use by public service corporations, with a statement of any restrictions or limitations placed on such use;

(8) The exact location, alignment or arrangement of all lot lines with their dimensions expressed in feet and hundredths of a foot and with their bearings or angles to half minutes;

(9) The tangent distances of all corners when rounded at intersections, except when streets intersect at right angles;

(10) All lots shall be numbered with consecutive Arabic numerals in each block;

(11) All blocks shall be lettered in alphabetical order;

(12) For resubdivision of lots in any block, the lots shall be numbered with consecutive Arabic numerals beginning with the numeral following the highest lot numeral in the block;

(13) The exact boundaries of all property to be dedicated for public use and of all property to be reserved by covenant in deeds for the common use of the occupants of lots in the subdivision or otherwise reserved, with a statement of the purpose for which such covenant or reservation is made or such use is restricted or limited;

(14) The zoning designation and lot area of individual lots;

(15) The name of the subdivision or section or part thereof, the date, the scale and the name of the engineer or surveyor who prepared the plat, which shall be contained in a space not exceeding four inches high and six inches wide in the lower right-hand corner of the plat. The name of the subdivision shall appear more distinctively than the other data;

(16) The names and locations of contiguous or adjoining subdivisions and the ownership of other contiguous or adjoining property;

(17) The name of the subdivider;

(18) The north point with magnetic bearing, or if the true meridian is shown, the basis for its determination shall be stated;

(19) A statement of the engineer or surveyor who prepared the plat, certifying that:

a. The plat represents and is based on a survey made by or under the direction and supervision of such engineer or surveyor;

b. All monuments shown thereon are actually in place or will be put in place before a date specified and their location and character are truly shown on the plat; and

c. All of the provisions and requirements of the foregoing sections of this chapter have been observed and fully complied with;

(20) A statement to the effect that the subdivision as it appears on the plat, including the dedication of all streets, alleys, easements and other land for public purposes and use, is with the free consent and in accordance with the desire of the subdivider and of the trustee or mortgagee or each of them, if more than one, in any deed or other instrumentality, if any, creating a lien on the land in the subdivision or any part thereof, which shall be signed by the subdivider, trustee or mortgagee and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds. All cloth prints and

transparent copies shall contain such signatures;

(21) A statement prepared by a certified professional engineer or land surveyor, who shall endorse upon each such plat a certificate signed by such person setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat;

(22) The depiction of resource protection area and resource management area boundaries, including a notation to retain an undisturbed and vegetative 100-foot-wide buffer area, as specified in the Chesapeake Bay Preservation Area Designation and Management Regulations; a notation for pump-out and 100 percent reserved drainfield sites for on-site sewage treatment systems, when applicable; and a notation of the permissibility of only water-dependent facilities or redevelopment in resource protection areas, including the 100-foot-wide buffer areas; and

(23) The delineation of the buildable areas that are allowed on each lot. The delineation of buildable areas shall be based on the performance criteria specified in the Chesapeake Bay Preservation Area Designation and Management Regulations; front, side and rear yard setback requirements established pursuant to Chapter 30; and any other relevant easements or limitations regarding lot coverage.

(Code 1993, § 26-85; Code 2004, § 94-255; Code 2015, § 25-292)

Sec. 25-293. Approval or denial.

(a) When any and all conditions which may have been imposed by the Commission as conditions of approval of any preliminary subdivision plats have been complied with and when the Directors of Public Works and Public Utilities have certified in writing that all requirements of Sections 25-260, 25-261 and 25-262 have been complied with or that all contracts and bonds required under such sections have been properly executed and delivered and are in force and effect, the Secretary of the Commission shall finally approve the subdivision plat.

(b) The Commission shall complete all actions on preliminary subdivision plats in accordance with Code of Virginia, § 15.2-2260. If the Commission does not approve the preliminary plat, the Commission shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by the Commission. If the Commission fails to approve or disapprove the preliminary plat within 90 days after it has been officially submitted for approval, the subdivider, after ten days' written notice to the Commission, may petition the Circuit Court of the City to enter an order with respect thereto as it deems proper, which may include directing approval of the preliminary plat. For the purposes of this subsection, a preliminary plat shall not be deemed officially submitted until the Secretary of the Commission determines that it contains all of the information required by this chapter.

(c) The Secretary of the Commission shall complete all actions on final subdivision plats within 60 days after it has been officially submitted to the Commission for approval by either approving or disapproving the final plat in writing and giving with the disapproval specific reasons therefor. Specific reasons for disapproval may be contained in a separate document or may be written on the final plat itself. The reasons for disapproval shall identify deficiencies in the final plat which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall generally identify modifications or corrections as will permit approval of the final plat. If the Commission fails to approve or disapprove the final plat within 60 days after it has been officially submitted for approval, the subdivider, after ten days' written notice to the Commission, may petition the Circuit Court of the City to decide whether the final plat should or should not be approved. The court shall hear the matter and make and enter an order with respect thereto as it deems proper, which may include directing approval of the final plat. For the purposes of this subsection, a final plat shall not be deemed officially submitted until the Secretary of the Commission determines that it contains all of the information required by this chapter.

(d) If the Commission disapproves a preliminary plat or the Secretary of the Commission disapproves a final plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto or was arbitrary or capricious, the subdivider may appeal to the Circuit Court of the City. The court shall hear and determine the case as soon as may be practicable, provided that the subdivider's appeal is filed with the Circuit Court within 60 days of the written disapproval by the Commission or the Secretary of the Commission.

(Code 1993, § 26-86; Code 2004, § 94-256; Code 2015, § 25-293)

Sec. 25-294. Recordation.

Upon the approval of the subdivision plat by the Commission, the subdivider shall record it in the office of the clerk of the court in the City in which deeds conveying lots in the subdivision are required to be recorded, within six months from the day the plat is approved. Upon failure to record the plat within six months from the date of such approval of the Commission, such failure shall operate to revoke such approval and render it void and of no effect. Unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the Commission, such approval shall be withdrawn and such plat marked void and returned to the Secretary of the Commission; however, when construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the appropriate City department or when the developer has furnished surety to the appropriate City department by certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the appropriate City department, whichever is greater.

(Code 1993, § 26-87; Code 2004, § 94-257; Code 2015, § 25-294)

State law reference—Required provisions, Code of Virginia, § 15.2-2241(A)(8).

Chapter 26

TAXATION*

***Charter reference**—Authority of City to levy taxes and assessments, authority to require licenses, § 2.02(a).

Cross reference—Any ordinance or resolution levying or imposing taxes saved from repeal, § 1-4(9); administration, Ch. 2; amusements and entertainments, Ch. 3; businesses and business regulations, Ch. 6; finance, Ch. 12; motor vehicle license tax, § 27-105 et seq.

State law reference—Taxation generally, Code of Virginia, § 58.1-1 et seq.; licenses generally, Code of Virginia, § 58.1-3700 et seq.; City tax levies, Code of Virginia, § 58.1-3005 et seq.; general authority of City relative to taxes and assessment, Code of Virginia, § 15.2-1104.

ARTICLE I. IN GENERAL

Sec. 26-1. Definitions.

Words and terms not defined in this section shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assessed value, for taxes, means the result obtained when the original cost (tangible personal property or machinery and tools) is multiplied by the assessment rate.

Assessment rate means the percentage applied to the original cost of tangible personal property and machinery and tools to determine the assessed value of the property.

Collector means the Director of Finance or designee.

Director means the Director of Finance.

Due date means the date on which any tax levied by the City is required to be paid to the Collector without incurring a penalty.

Machinery and tools tax means for tax years beginning prior to January 1, 2021, the tax on machinery and tools except idle machinery and tools as defined in Code of Virginia, § 58.1-3507(D) and machinery and equipment used by farm wineries as defined in Code of Virginia, § 4.1-100, used in a manufacturing, mining, water well drilling, processing or reprocessing, radio or television broadcasting, dairy, dry cleaning or laundry business.

State law reference—Machinery and tools defined, Code of Virginia, § 58.1-3507(A).

Machinery and tools tax means for tax years beginning on and after January 1, 2021, the tax on machinery and tools, except idle machinery and tools as defined in Code of Virginia, § 58.1-3507(D) and machinery and equipment used by farm wineries as defined in Code of Virginia, § 4.1-100, used in a manufacturing, mining, water well drilling, processing or reprocessing, radio or television broadcasting, dairy, dry cleaning or laundry business, or a business primarily engaged in advanced recycling, as defined in Code of Virginia, § 58.1-439.7.

State law reference—Machinery and tools defined, Code of Virginia, § 58.1-3507(A).

Personal property tax means the tax on tangible personal property owned on the tax date and either physically located in the City or, for vehicles, normally garaged or parked in the City.

Situs means the location of personal property and machinery and tools which determines the locality to which the owner of the property may be subject to taxation. For tangible personal property and machinery and tools, situs is based on the physical location of the property on the tax day. For motor vehicles, travel trailers, boats and airplanes, situs is determined generally by where the vehicle is normally garaged, docked or parked. See Code of Virginia, § 58.1-3511 for exceptions.

Tangible personal property means all personal property not classified as intangible personal property, merchant's capital or daily rental property as defined by Code of Virginia, §§ 58.1-1100 and 58.1-3510.

Tax day means the effective date on which personal property and machinery and tools become subject to

personal property or machinery and tools taxes in the City.

Tax rate means the figure used to calculate the total taxes due, expressed as an amount per $100.00 of assessed value, or gross receipts, as determined by the City Council.

(Code 1993, § 27-1; Code 2004, § 98-1; Code 2015, § 26-1)

Cross reference—Definitions generally, § 1-2.

Sec. 26-2. Commission for collection, accounting, and remission of meals taxes.

In accordance with Code of Virginia, § 58.1-3816.1, any local business, or any class thereof, required by Article VIII of this chapter to collect and remit to the City the tax paid for meals levied under Article VIII of this chapter may withhold as a deduction from the tax remitted a commission in the amount of three percent of the amount of such tax due and accounted for. No deduction shall be allowed if the amount due was delinquent.

(Code 2015, § 26-2; Ord. No. 2018-142, § 1, 5-14-2018; Ord. No. 2019-124, § 1, 5-13-2019)

Sec. 26-3. Application of payments.

The Director of Finance shall not be required to credit all payments of local levies first against the most delinquent account and may instead credit such payments, to the extent permitted by law, in the manner deemed appropriate where the taxpayer has entered into a bona fide payment agreement with the City.

(Code 2015, § 26-3; Ord. No. 2020-114, § 1, 5-26-2020)

Secs. 26-4—26-20. Reserved.

ARTICLE II. TAX AMNESTY PROGRAM

Sec. 26-21. Administration.

As authorized by Chapter 200 of the 2010 Acts of Assembly of Virginia, as amended by Chapters 254 and 496 of the 2012 Acts of Assembly of Virginia, the Director of Finance may administer the tax amnesty program in any tax year, in accordance with this article and other applicable law, for any person, individual, corporation, estate, trust, or partnership required to file a local tax return or to pay any local tax.

(Code 2004, § 98-2; Code 2015, § 26-21; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017)

Sec. 26-22. Purpose.

The purpose of this article is to set forth the general provisions pursuant to which the Director of Finance administers the tax amnesty program established by Chapter 200 of the 2010 Acts of Assembly of Virginia, as amended by Chapters 254 and 496 of the 2012 Acts of Assembly of Virginia. The purpose of the program is to increase compliance by delinquent taxpayers in the reporting and payment of local tax liabilities owed to the City or to provide eligible taxpayers with short-term relief after the declaration of a national, state, or local emergency, either or both. The parameters set forth in Sections 26-21 through 26-29 shall apply to the program.

(Code 2004, § 98-3; Code 2015, § 26-22; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017; Ord. No. 2020-096, § 1(26-22), 4-27-2020)

Sec. 26-23. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tax amnesty period means the period established in accordance with this article during which tax amnesty is available to eligible persons, individuals, corporations, estates, trusts or partnerships that are required to file a local tax return or to pay any local tax.

Tax amnesty program means the tax amnesty program established pursuant to Chapter 200 of the 2010 Acts of Assembly of Virginia, as amended by Chapters 254 and 496 of the 2012 Acts of Assembly of Virginia, and administered in accordance with the provisions of those Acts of Assembly and Sections 26-21 through 26-29.

(Code 2004, § 98-4; Code 2015, § 26-23; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 26-24. Rules, regulations and guidelines for administration of tax amnesty program.

The Director of Finance may issue, modify and enforce any rules, regulations or guidelines, consistent with this article and other applicable law, necessary to carry out the requirements and purposes of this article.

(Code 2004, § 98-5; Code 2015, § 26-24; Ord. No. 2011-4-3, § 1, 1-24-2011)

Sec. 26-25. Duties of Director of Finance.

The Director of Finance shall provide the Council with a report prior to each tax amnesty period concerning the procedures and guidelines that shall be applicable for the immediately succeeding tax amnesty period.

(Code 2004, § 98-6; Code 2015, § 26-25; Ord. No. 2011-4-3, § 1, 1-24-2011)

Sec. 26-26. Eligibility criteria.

Any person, individual, corporation, estate, trust or partnership required to file a local tax return or to pay any local tax shall be eligible to participate in the tax amnesty program, subject to the requirements and limitations set forth in this article and other applicable law. However, no person, individual, corporation, estate, trust or partnership currently, or at the inception of this program, under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate, and no person, individual, corporation, estate, trust or partnership against which any civil action has been filed in a court of competent jurisdiction to enforce or collect a delinquent tax before the end of the eligibility period shall qualify to participate, unless such delinquent tax, interest, penalty, attorney's fees, and any other applicable charges have been paid in full before the end of the tax amnesty period. For the purposes of the preceding sentence, the term "eligibility period" means the time period during which taxes become delinquent for which the benefits of the tax amnesty period are provided if, during the tax amnesty period and in accordance with this article, (i) the delinquent taxes and interest are paid, if only the penalty is waived, (ii) the delinquent taxes and penalty are paid, if only the interest is waived, or (iii) the delinquent taxes are paid, if both the interest and penalty are waived. In addition, the Director of Finance may notify each eligible person, individual, corporation, estate, trust or partnership against which any civil action has been filed in a court of competent jurisdiction to enforce or collect a delinquent tax before the end of the eligibility period that does not pay the full amount of delinquent tax, interest, penalty, attorney's fees, and any other applicable charges owed on or before the last day of the tax amnesty period that the Council and the Mayor may determine that such person, individual, corporation, estate, trust or partnership shall not be eligible to participate in future tax amnesty periods administered by the Director of Finance in accordance with this article.

(Code 2004, § 98-7; Code 2015, § 26-26; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017)

Sec. 26-27. Notification of opportunity to participate in tax amnesty program; participation in tax amnesty program.

(a) *Notification of opportunity to participate.* The Director of Finance shall publish notice in a newspaper of general circulation and on the website of the Department of Finance that persons, individuals, corporations, estates, trusts or partnerships may be eligible to participate in the tax amnesty program during the applicable amnesty period.

(b) *Participation.* In order to participate in the tax amnesty program, any eligible person, individual, corporation, estate, trust or partnership required to file a local tax return or to pay any local tax shall pay in full the amount of all delinquent taxes, together with any interest or penalty not waived in accordance with this article, owed on or before the last day of the tax amnesty period for which such person, individual, corporation, estate, trust or partnership is qualified to participate.

(Code 2004, § 98-8; Code 2015, § 26-27; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017; Ord. No. 2020-096, § 1(26-27), 4-27-2020; Ord. No. 2020-109, § 1, 5-11-2020)

Sec. 26-28. Waiver of penalties and interest upon payment of taxes; limitations.

In accordance with this article and other applicable law, and as recommended by the Mayor and authorized by ordinance adopted by the Council, the Director of Finance may waive, upon receipt, on or before the last day of the tax amnesty period, of the payment of (i) the amount of taxes and interest owed, if only the penalty is waived, (ii) the amount of taxes and penalty owed, if only the interest is waived, or (iii) the amount of taxes, if both the

interest and penalty are waived, all of the civil penalties assessed or assessable and the interest, either or both, as provided for in Code of Virginia, Title 58.1 (Code of Virginia, § 58.1-1 et seq.), which are the result of nonpayment, underpayment, nonreporting or underreporting of one or more types of local tax liabilities. No penalties or interest for any eligible person, individual, corporation, estate, trust or partnership shall be waived except upon receipt, on or before the last day of the tax amnesty period for which such person, individual, corporation, estate, trust or partnership is qualified to participate, of the full amount of (i) the delinquent tax and any interest owed if only the penalty is to be waived, (ii) the delinquent tax and penalty owed, if only the interest is to be waived, or (iii) the delinquent tax owed, if both the interest and penalty are to be waived.

(Code 2004, § 98-9; Code 2015, § 26-28; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017)

Sec. 26-29. Tax amnesty program for the tax year beginning January 1, 2020; tax amnesty periods; report to Finance and Economic Development Standing Committee; waiver of penalties; limitations; applicability of other provisions.

(a) *Tax amnesty program for the tax year beginning January 1, 2020.* For the tax year beginning January 1, 2020, the Director of Finance shall administer the tax amnesty program in accordance with this article and other applicable law, for admissions, lodging, and meals taxes delinquent as of any date beginning March 21, 2020, through June 23, 2020, for tangible personal property taxes delinquent as of June 6, 2020, and for real estate taxes delinquent as of June 16, 2020. However, no taxpayer that qualifies for the tax amnesty program for which this section provides shall be permitted to withhold the commission provided for in Section 26-2. For purposes of this section, the phrase "delinquent local taxes" means, as applicable, admissions, lodging, or meals taxes delinquent as of any date beginning March 21, 2020, through June 23, 2020, tangible personal property taxes delinquent as of June 6, 2020, or real estate taxes delinquent as of June 16, 2020.

(b) *Tax amnesty periods for the tax year beginning January 1, 2020.* For delinquent local taxes described in subsection (a) of this section, the period within which eligible persons may receive tax amnesty program benefits for the tax year beginning January 1, 2020, shall be, for admissions, lodging, and meals taxes, from April 20, 2020, to June 30, 2020, and for tangible personal property taxes and real estate taxes, from June 5, 2020, to August 14, 2020.

(c) *Report to Finance and Economic Development Standing Committee.* The Director of Finance shall submit a report concerning the tax amnesty program administered in accordance with this section to the Finance and Economic Development Standing Committee within 60 days after the last day of each tax amnesty period established pursuant to this section. Such report shall include:

(1) The number of eligible tax amnesty program participants; and

(2) The total amount of penalties and interest waived for the delinquent local taxes described in subsection (a) of this section.

(d) *Waiver of penalties.* For the tax year beginning January 1, 2020, and for delinquent local taxes described in subsection (a) of this section, in accordance with this article and other applicable law, the Director of Finance shall waive, upon receipt of the payment of the amount of taxes owed on or before the last day of the applicable tax amnesty period established by this section, all of the civil penalties assessed or assessable and the interest as provided for in Code of Virginia, Title 58.1 (Code of Virginia, § 58.1-1 et seq.) which are the result of nonpayment or underpayment of the local tax liabilities described in subsection (a) of this section.

(e) *Limitations.* No penalties or interest for any eligible person, individual, corporation, estate, trust or partnership shall be waived for admissions, lodging, or meals taxes, except upon the timely filing of an admissions, lodging, or meals tax return each month, in accordance with Section 26-673, 26-699, or 26-728, as applicable, and upon receipt of the payment of the full amount of the delinquent tax owed on or before the last day of the applicable tax amnesty period for such taxes for the tax year beginning January 1, 2020. No penalties or interest for any eligible person, individual, corporation, estate, trust or partnership shall be waived for tangible personal property taxes or real estate taxes except upon receipt of the payment of the full amount of the delinquent tax owed on or before the last day of the applicable tax amnesty period for such taxes for the tax year beginning January 1, 2020. For purposes of this section, the phrase "receipt of the payment of the full amount of the delinquent tax" means, for admissions, lodging, or meals taxes delinquent as of any date set forth in subsection (a) of this section, as applicable, either the payment of the full amount due to the City on or before the last day of the applicable tax amnesty period or the

City's acceptance of a payment plan on or before the last day of the applicable tax amnesty period (i) for a period of no longer than six months, (ii) under which at least 25 percent of the full amount due has been delivered to the City on or before the last day of the applicable tax amnesty period, and (iii) in compliance with which the full amount due to the City has been paid by the end of the period of the payment plan and for tangible personal property taxes or real estate taxes delinquent as of the dates set forth in subsection (a) of this section, as applicable, payment of the full amount due to the City on or before the last day of the applicable tax amnesty period. No person, individual, corporation, estate, trust or partnership shall be eligible for a payment plan for admissions, lodging, or meals taxes under this section until the person has produced satisfactory evidence (i) that all delinquent taxes, penalty, and interest owed by the person prior to March 20, 2020, have been paid; (ii) that the City has accepted a payment plan with the person for any delinquent taxes, penalty, and interest owed by the person prior to March 20, 2020, and the person has adhered to all of the terms of such payment plan; or (iii) such delinquent taxes, interest, and penalty owed by the person prior to March 20, 2020, have been paid in full before the end of the applicable tax amnesty period set forth in this section.

(f) *Applicability of other provisions.* Except as may be provided otherwise in this section, this article shall apply to the tax amnesty period set forth in this section.

(Code 2004, § 98-10; Code 2015, § 26-29; Ord. No. 2011-4-3, § 1, 1-24-2011; Ord. No. 2017-063, § 1, 5-15-2017; Ord. No. 2020-096, § 1(26-29), 4-27-2020; Ord. No. 2020-109, § 1, 5-11-2020)

Sec. 26-30. Filing.

That, for the tax year beginning January 1, 2020, in order to qualify for the tax amnesty program for which this ordinance provides, all admissions, lodging, and meals tax returns, as applicable, for the tax year beginning January 1, 2020, shall be timely filed each month with the Director of Finance by no later than May 20, 2020.

(Ord. No. 2020-096, § 2, 4-27-2020)

Secs. 26-31—26-46. Reserved.

ARTICLE III. ASSESSMENT OF PROPERTY FOR TAXATION*

***State law reference—**Statute of limitations for assessment of real estate, Acts of Assembly 1936, Ch. 261; amended by Acts of Assembly 1950, Ch. 422; tax assessments generally, Code of Virginia, § 58.1-3250 et seq.

DIVISION 1. GENERALLY

Sec. 26-47. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assessor means the Assessor of Real Estate appointed to office pursuant to Sections 26-101 and 26-102 to assess real estate in the City for taxation.

(Code 1993, § 27-16; Code 2004, § 98-31; Code 2015, § 26-47)

Cross reference—Definitions generally, § 1-2.

Sec. 26-48. Erroneous assessments; refunds and exoneration from payments.

(a) In accordance with Code of Virginia, § 58.1-3990, the Director is authorized to refund any local taxes or classes of levies of local taxes erroneously paid, provided such Director is satisfied that any applicant for refund of such taxes has been assessed with local taxes, as provided in Code of Virginia, §§ 58.1-3980 and 58.1-3981, and such assessment has been erroneously made by an official authorized to make such assessments. Upon such satisfaction that an assessment or portion thereof is erroneous, the amount erroneously assessed shall be certified. If the levy has not been paid, with approval of the Director of Finance and the City Attorney, the applicant shall be exonerated from payment of so much of the levy as is erroneous; if such taxes have been paid, with the approval of the Director of Finance and the City Attorney, the applicant shall be refunded the amount erroneously paid, together with any penalties and interest paid thereon.

(b) In no event shall a refund be made unless application therefor is made within three years after the last day of the tax year for which the tax was assessed or one year from the date of the assessment, whichever is later.

(Code 2015, § 26-48; Ord. No. 2020-088, § 2, 5-26-2020)

Secs. 26-49—26-67. Reserved.

DIVISION 2. DIVISION OF CITY INTO SECTIONS FOR ASSESSMENT AND COLLECTION OF REAL ESTATE TAXES

Sec. 26-68. Generally.

In order to eliminate the omission from taxation of real estate assessable by the City for taxation and to simplify and facilitate the preparation of tax bills therefor, the area embraced within the corporate City limits shall be divided into five general sections by the Assessor, to be designated, respectively, Section S, Section E, Section W, Section N and Section C.

(Code 1993, § 27-17; Code 2004, § 98-32; Code 2015, § 26-68)

Sec. 26-69. Plan showing location, metes and bounds of sections.

The location, metes and bounds of each of the sections designated in Section 26-68 shall be shown upon a plan prepared and kept on file in the Office of the Assessor, which plan may be revised from time to time by the assessor.

(Code 1993, § 27-18; Code 2004, § 98-33; Code 2015, § 26-69)

Sec. 26-70. Further division of City into census tracts.

The sections referred to in Section 26-68 shall be divided into census tracts as established by the United States Bureau of the Census, which tracts shall be shown on the plan referred to in Section 26-69 and designated by numbers preceded by the appropriate letter corresponding to the section.

(Code 1993, § 27-19; Code 2004, § 98-34; Code 2015, § 26-70)

Sec. 26-71. Assignment of block numbers; notice to Assessor.

The several blocks of land situated in the sections and tracts referred to in Sections 26-68 through 26-70 shall be numbered in accordance with numbers shown on the plan incorporated by Section 26-69. The Director of Public Works is hereby authorized and directed, when any land is subdivided by opening of streets, alleys or otherwise or when the corporate City limits shall be extended, to designate proper block numbers for the areas affected thereby, and upon such designation the Director shall give notice thereof to the Assessor.

(Code 1993, § 27-20; Code 2004, § 98-35; Code 2015, § 26-71)

Secs. 26-72—26-100. Reserved.

DIVISION 3. ASSESSOR

Sec. 26-101. Position created; purpose.

All real estate in the City not exempted from taxation by the State Constitution and not assessable for taxation by the State Corporation Commission as provided by law shall be assessed annually for taxation by the City, and for that purpose the Office of Assessor of Real Estate is hereby created.

(Code 1993, § 27-21; Code 2004, § 98-36; Code 2015, § 26-101)

Sec. 26-102. Appointment; qualifications.

The Assessor shall be appointed by the City Council for an indefinite term and shall be a member of the unclassified service. The Assessor shall be chosen on the basis of knowledge of and experience in real estate appraisal practices and procedures and administrative and executive ability. The Assessor shall report to the City Council's Finance Standing Committee on a monthly basis and shall be evaluated on an annual basis by the City Council at the time that the Council conducts its evaluation of other Council appointees.

(Code 1993, § 27-22; Code 2004, § 98-37; Code 2015, § 26-102; Ord. No. 2004-3-32, § 1, 2-9-2004)

Sec. 26-103. General powers; assistants.

The Assessor shall have the general management and control of the assessment of real estate for taxation. To assist in the performance of the Assessor's duties, the Assessor shall appoint a Deputy Assessor and such appraisers, clerks and other employees as shall be authorized by the City Council who shall be members of the classified service and shall be appointed and removed subject to the City's personnel rules and regulations. The Deputy Assessor, appraisers, clerks and other employees shall be responsible to the Assessor for the efficient performance of duties assigned to them by the Assessor.

(Code 1993, § 27-23; Code 2004, § 98-38; Code 2015, § 26-103)

Sec. 26-104. Duties.

The Assessor shall assess annually for taxation at its fair market value all real estate in the City which shall include all lands, buildings, structures and improvements thereon and all rights thereto and interests therein and shall have the power to do all things necessary to assess such property.

(Code 1993, § 27-24; Code 2004, § 98-39; Code 2015, § 26-104)

Sec. 26-105. Assessment of new buildings substantially completed or fit for use and occupancy; abatement of levies on buildings razed, destroyed or damaged.

(a) Notwithstanding any other provision of this chapter to the contrary, all new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the City Assessor shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the Office of the Department of Finance and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the tax year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this subsection after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding tax year.

(b) All levies on buildings which are (i) razed, or (ii) destroyed or damaged by a fortuitous happening beyond the control of the owner shall be abated. No such abatement, however, shall be allowed if the destruction or damage to such building shall decrease the value thereof by less than $500.00. Also, no such abatement shall be allowed unless the destruction or damage renders the building unfit for use and occupancy for 30 days or more during the calendar year. The tax on such razed, destroyed or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire year. Application for such abatement shall be made by or on behalf of the owner of the building within six months of the date on which the building was razed, destroyed or damaged.

(Code 2015, § 26-105; Ord. No. 2016-141, § 1, 5-13-2016)

State law reference--Abatement of levies on buildings razed, destroyed or damaged by fortuitous happenings, Code of Virginia, § 58.1-3222.

Secs. 26-106—26-121. Reserved.

DIVISION 4. MAKING OF ASSESSMENTS; REQUIREMENTS FOR SAME

Sec. 26-122. Time of making and entering assessment; notice of increase.

Every assessment of real estate shall be completed not later than December 31 of the year immediately preceding the year for which such assessment is to be effective for tax purposes, and every parcel of real estate shall be entered separately upon a land book in the name of the owner thereof or in the name of the owner of any interest therein. Every such entry shall show the nature of the estate, right, title or interest owned in such real estate. Whenever any such assessment is increased, the Assessor shall give written notice thereof to the owner of such real estate and of any interest therein by mailing such notice to the last known post office address of such owner, but the validity of such assessment shall not be affected by any failure to give or receive such notice.

(Code 1993, § 27-25; Code 2004, § 98-40; Code 2015, § 26-122; Ord. No. 2010-92-105, § 3, 5-24-2010)

State law reference—Notice of change in assessment, Code of Virginia, § 58.1-3330.

Sec. 26-123. Assessment of City property.

The Assessor shall also assess at its fair market value all real estate owned by the City as if such real estate were subject to taxation.

(Code 1993, § 27-26; Code 2004, § 98-41; Code 2015, § 26-123)

State law reference—Assessment of values, Code of Virginia, §§ 58.1-3280, 58.1-3308.

Sec. 26-124. Assessment not invalidated by error unless prejudicial.

No assessment of any real estate shall be held to be invalid because of any error, omission or irregularity in charging such real estate on the land book unless it is shown by the person contesting any such assessment that such error, omission or irregularity has operated to the prejudice of the rights of the taxpayer.

(Code 1993, § 27-27; Code 2004, § 98-42; Code 2015, § 26-124)

State law reference—Similar provisions, Code of Virginia, § 58.1-3353.

Secs. 26-125—26-146. Reserved.

DIVISION 5. LAND BOOKS

Sec. 26-147. Generally

The form of the land books shall be prescribed by the Assessor. In preparing the land book, all real estate owned by the City shall be listed separately from all other property assessed. The Assessor shall, upon completion of each annual assessment, certify on the land book on oath that all real estate subject to taxation by the City has been assessed at the fair market value thereof and that there are no errors on the face of the land book. The original of each land book shall be in the Office of the Assessor, and no change or alteration in or addition to any entry appearing thereon shall be made unless authorized by law. There shall also be furnished to the State Department of Taxation such information respecting such assessments as it may require. One copy of the land book shall be delivered by the Assessor to the Collector by May 1 of each year. One copy shall be filed with the Office of the Clerk of the Circuit Court of the City.

(Code 1993, § 27-28; Code 2004, § 98-43; Code 2015, § 26-147)

State law reference—Reassessment records, Code of Virginia, § 58.1-3300.

Sec. 26-148. Procedure in street closings.

Whenever any ordinance shall be passed closing any street, alley or other public place to public use or travel, the City Clerk shall send a copy of such ordinance to the Assessor, and the Assessor shall enter on the land books for the next ensuing year in the names of the abutting owners who may be entitled to such property the parcels of land formerly occupied by such street, alley or other public place.

(Code 1993, § 27-29; Code 2004, § 98-44; Code 2015, § 26-148)

Secs. 26-149—26-179. Reserved.

DIVISION 6. SPECIAL ASSESSMENTS

Sec. 26-180. Generally.

The Assessor shall list in the land book all charges made for the use of streets or alleys. The Director of Finance shall maintain a separate record of special assessments and charges for improvements made. When such assessments and charges are not paid in the year in which they are made, they shall be included in the real estate tax bill for the succeeding year.

(Code 1993, § 27-30; Code 2004, § 98-45; Code 2015, § 26-180)

Sec. 26-181. Duties of Assessor and Director of Finance generally; lien created.

The Assessor shall ascertain from time to time, but at least annually, what changes have been made in the subdivision of lots or by change of fronts and shall assess the change of front or reduce the tax of diminished fronts, as it may appear in each case. The Director of Finance shall ascertain, from time to time, not less than annually, from each of the departments of the City government what permits have been granted for the doing of any and all work of public improvement on any of the streets, alleys or public places of the City where abutting property owners are liable for the expense of doing such work and shall charge or credit them upon a journal and ledger to be kept in the Director's Office open to the public. Every such charge when so made shall constitute a lien upon the abutting property until it is paid and, if not paid in the year such charge is made, shall be added to the assessment against the abutting property for the ensuing tax year and shall be collected with such taxes by any manner prescribed by law for the collection of City taxes. The Director of Finance shall enter the extra charges and make the credits so reported upon books in columns provided therefor.

(Code 1993, § 27-31; Code 2004, § 98-46; Code 2015, § 26-181)

Sec. 26-182. Duties of Director of Public Works.

The Director of Public Works shall report to the Director of Finance the costs of all sidewalks and alleys paved and graded by the City, at the expense of the abutting property owners, and the Director of Public Works shall make out bills for such costs.

(Code 1993, § 27-32; Code 2004, § 98-47; Code 2015, § 26-182)

Secs. 26-183—26-202. Reserved.

DIVISION 7. EFFECTIVE DATE

Sec. 26-203. Effective date of assessments.

Every assessment made by the Assessor shall be effective for tax purposes on January 1 of the tax year immediately after the year in which the assessment is completed, and taxes and other charges for the year shall be extended on the basis of every such assessment. The beginning of the tax and assessment year for the assessment of taxes on all real estate assessable by the City for taxation and other charges shall be January 1, and the owner of such real estate on that day shall be assessed with taxes and other charges for the year beginning on that day.

(Code 1993, § 27-33; Code 2004, § 98-48; Code 2015, § 26-203; Ord. No. 2010-92-105, § 3, 5-24-2010)

State law reference—Similar provisions, Code of Virginia, § 58.1-3281.

Secs. 26-204—26-229. Reserved.

DIVISION 8. EQUALIZATION OF ASSESSMENTS

Sec. 26-230. Application to Assessor for hearings.

In order to equalize assessments of real estate, the Assessor shall hold hearings as often as may be necessary between August 1 and October 1 in each year in which an assessment is completed for the purpose of receiving such evidence as may be presented by any taxpayer with respect to the inequality of the assessment made of the real estate owned by such taxpayer for that year. Any taxpayer aggrieved by such assessment of the taxpayer's property may apply to the Assessor for the equalization thereof on forms provided by the Assessor for the purpose.

(Code 1993, § 27-34; Code 2004, § 98-49; Code 2015, § 26-230; Ord. No. 2010-92-105, § 3, 5-24-2010)

Sec. 26-231. Notice of hearings.

At least ten days before August 31 of each year in which an assessment is completed, notice shall be given by publication one time in one of the newspapers having general circulation in the City that the hearings referred to in Section 26-230 will be held at the place and on the days designated therein for the purpose of equalizing such assessments.

(Code 1993, § 27-35; Code 2004, § 98-50; Code 2015, § 26-231; Ord. No. 2010-92-105, § 3, 5-24-2010)

Sec. 26-232. Action after hearing; rule of evidence.

After hearing the evidence referred to in Section 26-230, the Assessor may take such action as deemed

necessary regarding assessments and shall record the action taken in the land book; provided, however, that there shall be a clear presumption in favor of each assessment, and the burden of proof shall be upon the taxpayer to show that such assessment is in excess of the fair market value of the real estate.

(Code 1993, § 27-36; Code 2004, § 98-51; Code 2015, § 26-232)

Sec. 26-233. Delegation of hearing to assistant; summary of evidence.

The Assessor may authorize persons employed in the Assessor's Office who are competent to do so to hold any hearing referred to in this division, provided the evidence presented or a summary thereof is transmitted to the Assessor for action with respect thereto.

(Code 1993, § 27-37; Code 2004, § 98-52; Code 2015, § 26-233)

Secs. 26-234—26-259. Reserved.

DIVISION 9. MISCELLANEOUS PROVISIONS

Sec. 26-260. Payment of court costs by City for correction of erroneous or double assessments.

All court costs incurred by any taxpayer in having corrected any erroneous or double assessment made against the taxpayer on any subject of local taxation or for any local public improvements shall be paid by the City when application is made therefor within the time prescribed by law and when such assessment is adjudged by a court of competent jurisdiction to be erroneous or doubled and was made through error of the proper assessing authority of the City.

(Code 1993, § 27-38; Code 2004, § 98-53; Code 2015, § 26-260)

Sec. 26-261. Summoning power of Assessor; service; failure to appear.

The Assessor shall have authority to summon taxpayers, their agents and other persons who may have information on the subject to appear and testify under oath concerning the ownership and value of real estate assessable by the Assessor and to require the production of books of account and other papers and records containing such information for inspection by the Assessor. Such summons may be served by any officer authorized by law to serve process or by registered mail. Any person refusing to answer the summons of the Assessor or failing or refusing to furnish information or to produce books of account, papers or other records required by the Assessor shall be guilty of a violation of this section, article or chapter, as the case may be.

(Code 1993, § 27-40; Code 2004, § 98-54; Code 2015, § 26-261)

Sec. 26-262. Notice to Assessor of new or remodeled buildings; assessment.

The Commissioner of Buildings shall notify the Assessor whenever erection of any new buildings or remodeling of existing structures is commenced within the City. Such new buildings and remodeled existing structures shall be assessed, whether entirely finished or not, at their fair market value on January 1 of the year for which the assessment is made.

(Code 1993, § 27-41; Code 2004, § 98-55; Code 2015, § 26-262)

Sec. 26-263. Information supplied by other City departments.

The departments and bureaus of the City having in their possession or under their control data or information which will aid the Assessor in carrying out the work of the Assessor's Office shall furnish it to the Assessor on written application therefor.

(Code 1993, § 27-42; Code 2004, § 98-56; Code 2015, § 26-263)

Sec. 26-264. Appraisal of property assessed by Corporation Commission.

The Assessor shall appraise all real estate in the City assessable for taxation under the law by the State Corporation Commission and compare the appraisals with the assessments thereof made by the Commission and solicit the aid of the Commission in equalizing the assessments of property in the City made by the Assessor with the assessment of other property in the City made by the Commission.

(Code 1993, § 27-43; Code 2004, § 98-57; Code 2015, § 26-264)

State law reference—Similar provisions, Code of Virginia, § 58.1-3200.

Sec. 26-265. Reproduction and sale of land books; unauthorized reproduction and sale.

The Assessor may, after the current land book required to be prepared and kept under this article is certified by the Assessor, cause such land book to be reproduced in such number of copies as deemed necessary to meet the demands of the public for its use and to authorize such reproductions to be sold to persons applying for such reproductions at a price to cover the cost of the City of reproducing the land book and the handling and distribution of such reproductions. The proceeds of the sale of such reproductions based upon the cost of labor and materials in reproducing such land book shall be kept in a separate account from which such cost shall be paid. Any surplus existing in such account at the close of any fiscal year shall be transferred to the general fund. The proceeds of the sale of such reproductions based upon any other cost of reproduction shall be paid into the general fund. It shall be unlawful for any person except the Assessor and a duly authorized representative to sell or offer any such reproduction for sale or to copy or cause to be copied or reproduced the whole or any part of any such reproduction and to sell or offer such copy or reproduction for sale, and every person who violates this sentence shall, upon conviction, be punished as provided in Section 1-16.

(Code 1993, § 27-44; Code 2004, § 98-58; Code 2015, § 26-265; Ord. No. 2010-92-105, § 3, 5-24-2010)

Sec. 26-266. Real estate property card file; fee for computer printouts.

A fee of $0.50 per computer printout shall be charged and paid into the City treasury to aid in defraying the cost of providing computer printouts of information contained in the real estate property card files maintained by the Assessor for each computer printout made from such property card files and provided to any person. Any department, agency or bureau of the City and any other governmental agency shall be exempt from payment of such fee.

(Code 1993, § 27-45; Code 2004, § 98-59; Code 2015, § 26-266)

Secs. 26-267—26-297. Reserved.

ARTICLE IV. TAX COLLECTIONS GENERALLY

Sec. 26-298. Interest on refunds.

(a) Whenever the Director of Finance determines that any taxes due under this chapter have been erroneously assessed or that payments have been remitted in excess of the taxes due the City, the Director shall refund such erroneous or excess tax payments with interest at the same rate as charged by the City for delinquent or omitted tax payments.

(b) The interest on such tax refunds shall be calculated and paid as follows:

(1) Interest shall be calculated beginning from the date of the payment that created the refund or the due date of the tax, whichever is later, until the date of issuance of the refund to the taxpayer.

(2) No interest shall be paid on a refund that is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(Code 1993, § 27-48; Code 2004, § 98-62; Code 2015, § 26-298)

State law reference—Interest required to be paid, Code of Virginia, § 58.1-3990.

Secs. 26-299—26-329. Reserved.

ARTICLE V. LEVY AND COLLECTION OF PROPERTY TAXES*

***State law reference—**Property tax collections, Code of Virginia, §§ 58.1-3910 et seq., 58.1-3940 et seq.

DIVISION 1. GENERALLY

Sec. 26-330. Payments considered received on due date.

(a) The payment of any tax levied by this article must be received by the Collector as follows to be considered as paid on or before the due date:

(1) Actual receipt, in person or by mail, by the Collector on or before the due date; or

(2) Receipt of a remittance by mail bearing a U.S. postmark on or before 12:00 midnight of the due date.

(b) Whenever the due date of any City tax is a Saturday, Sunday or legal holiday, such payments may be made on the next succeeding business day, without penalty.

(Code 1993, § 27-61; Code 2004, § 98-96; Code 2015, § 26-330)

Sec. 26-331. Determination of fault for failure to file return or pay tax.

Penalty and interest for failure to file a return or to pay a tax levied under this article shall not be imposed if such failure was not the fault of the taxpayer. Pursuant to Code of Virginia, § 58.1-3916, the determination of such fault shall be made by the Director of Finance.

(Code 1993, § 27-62; Code 2004, § 98-97; Code 2015, § 26-331)

Sec. 26-332. Payment of administrative costs, etc.

(a) Fees shall be imposed upon each person chargeable with delinquent taxes or other delinquent charges to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest and shall not exceed $30.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia, § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges. The fee for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges but prior to the taking of any judgment with respect to such delinquent taxes or charges shall be $30.00 and the fee for taxes or other charges collected subsequent to judgment shall be $35.00. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be $150.00 or 25 percent of the administrative costs.

(b) No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Code of Virginia, § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this subsection shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

(Code 1993, § 27-63; Code 2004, § 98-98; Code 2015, § 26-332; Ord. No. 2005-120-70, §§ 1, 2, 5-23-2005)

State law reference—Similar provisions, Code of Virginia, § 58.1-3958.

Sec. 26-333. Tax reduction for derelict buildings.

(a) Prior to commencement of an approved plan to demolish or renovate a derelict building submitted in accordance with Section 5-149, at the request of the property owner, the City Assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of demolition or the costs of materials and labor to complete the renovation.

(b) After demolition of a derelict building in accordance with a plan submitted in accordance with Section 5-149, at the request of the property owner of such building, the City Assessor shall reflect the fair market value of the demolition costs, and reflect such value in the real estate tax assessment records.

(c) After renovation of a derelict building in accordance with a plan submitted in accordance with Section 5-149, at the request of the property owner of such building, the City Assessor shall reflect the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records.

(d) The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be reduced for a period of five years, and such reduction shall run with the real estate. The reduction of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(Code 2004, § 98-99; Code 2015, § 26-333; Ord. No. 2013-15-18, § 2, 2-25-2013)

Secs. 26-334—26-354. Reserved.

DIVISION 2. REAL ESTATE*

***State law reference—**Real property tax, Code of Virginia, § 58.1-3200 et seq.

Sec. 26-355. Levy.

There shall be levied and collected for each year on all real estate located in the City not exempt from taxation a tax of $1.20 for the tax year beginning January 1, 2020, and for each year thereafter, until otherwise provided by law or ordinance, for each $100.00 of assessed evaluation thereof for general purposes.

(Code 1993, § 27-71; Code 2004, § 98-121; Code 2015, § 26-355; Ord. No. 2004-82-78, § 1, 4-13-2004; Ord. No. 2005-55-37, § 1, 4-11-2005; Ord. No. 2006-92-90, § 1, 4-10-2006; Ord. No. 2007-102-71, § 1, 4-9-2007; Ord. No. 2008-79-71, § 1, 4-14-2008; Ord. No. 2009-34-55, § 1, 4-13-2009; Ord. No. 2014-180-180, § 1, 10-13-2014; Ord. No. 2015-173-225, § 1, 11-9-2015; Ord. No. 2016-257, § 1, 11-14-2016; Ord. No. 2017-172, § 1, 11-13-2017; Ord. No. 2018-235, § 1, 11-13-2018; Ord. No. 2019-248, § 1, 11-12-2019)

Sec. 26-356. Adjustment of levy on public service corporations.

The levy upon real estate of public service corporations assessed by the State Corporation Commission, at other than its fair market value and remaining on an unequalized base (contra 100 percent of fair market value) as fixed in Section 26-355, shall be adjusted annually according to the assessment ratio as most recently determined and published by the State Department of Taxation in accordance with Code of Virginia, § 58.1-2604.

(Code 1993, § 27-72; Code 2004, § 98-122; Code 2015, § 26-356)

State law reference—Similar provisions, Code of Virginia, § 58.1-3201.

Sec. 26-357. Enforcement of liens.

No lien upon real estate for taxes levied thereon for 20 or more years shall be enforced in any proceeding at law or in equity, and such lien shall be deemed to have expired and to be barred and canceled after such time.

(Code 1993, § 27-73; Code 2004, § 98-123; Code 2015, § 26-357)

State law reference—Similar provisions, Code of Virginia, § 58.1-3940.

Sec. 26-358. Release of liens.

Whenever any taxes levied on real estate are not paid within 20 years or more from the date such taxes were levied, the Director of Finance or the Collector or a duly authorized representative shall mark on the record of the levy of such taxes "Lien barred and canceled as provided by law."

(Code 1993, § 27-74; Code 2004, § 98-124; Code 2015, § 26-358)

Sec. 26-359. Waiver of nuisance abatement liens to facilitate sale of property.

The Chief Administrative Officer is hereby authorized to waive and remove any docketed nuisance abatement liens, including liens for the removal of weeds and demolition of structures, in order to facilitate the sale of property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the property owner and who has no business association with the property owner. Such liens shall remain the personal obligation of the owner of the property at the time the liens were imposed. The granting of such waiver by the Chief Administrative Officer shall be subject to the requirements, limitations, or conditions decided by or promulgated by the Mayor.

(Code 1993, § 27-74.1; Code 2004, § 98-125; Code 2015, § 26-359; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 26-360. Release of delinquent real estate tax liens to facilitate the private sale of real property.

The Chief Administrative Officer or his or her designee is authorized to release and remove any delinquent real estate tax liens or any portion thereof in order to facilitate the private sale of real property. Such liens may be released only as to a purchaser who is unrelated by blood or marriage to the property owner, who has no business association with the property owner, who owes no delinquent real estate taxes for any real estate located within the City and where the subject real property, including land and improvements, is assessed at less than $50,000.00.

Such liens shall remain the personal obligation of the owner of the property at the time the liens were imposed. The Mayor shall promulgate the requirements, limitations or conditions for release of such liens to encourage the redevelopment of deteriorated property and the elimination of blight.

(Code 1993, § 27-74.2; Code 2004, § 98-126; Code 2015, § 26-360; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 26-361. Due date; payment without penalty; interest chargeable on delinquent taxes.

(a) Taxes levied on real estate shall be due and payable on the first day of the tax year for which they are levied. Such taxes may be paid without penalty during the year for which they are levied if one-half of such taxes are paid on or before January 14 of that year and the remaining one-half of such taxes are paid on or before June 14 of that year.

(b) The Collector shall give notice of each due date for real estate taxes by publication as required by Code of Virginia, § 58.1-3911.

(c) Whenever any taxpayer shall fail, refuse or neglect to pay the installment of taxes on or before the due date, there shall be added to the installment of taxes a penalty of ten percent thereof.

(d) Whenever an installment of such taxes is not paid on or before the due date, such unpaid taxes on the following day shall be deemed to be delinquent. Interest on such unpaid taxes shall be charged annually thereon at the rate of ten percent from the day following the due date pursuant to Code of Virginia, § 58.1-3916.

(e) Except as provided otherwise in Section 26-362, this section shall not apply to taxes on real estate assessed for taxation by the State Corporation Commission.

(Code 1993, § 27-75; Code 2004, § 98-127; Code 2015, § 26-361; Ord. No. 2010-92-105, § 3, 5-24-2010; Ord. No. 2011-5-4, § 3, 1-24-2011; Ord. No. 2016-265, § 1, 11-14-2016)

Sec. 26-362. Due date when assessed by State Corporation Commission; penalty; rates of interest chargeable on delinquent taxes.

(a) Taxes levied on real estate assessed for taxation by the State Corporation Commission shall be due and payable on the first day of the tax year for which they are levied. Credit on account of such taxes will be allowed during the year for which they are levied by payment of one-half of such taxes on or before January 14 of that year and of the remaining one-half of such taxes on or before June 14 of that year of the amount of taxes paid or levied for the preceding tax year. When the assessment of such real estate is made by the State Corporation Commission and the assessment is certified to the Assessor, the taxes due and payable shall be computed. If the payment made on account of the taxes exceeds the amount of the taxes so computed, the excess shall be refunded to the taxpayer. If the payment made on account of the taxes is less than the amount of the taxes so computed, the deficit may be paid by the taxpayer without penalty within 30 days after the taxpayer is given notice thereof. If the deficit is not paid within such 30 days, a penalty of ten percent of the amount of the deficit shall be added thereto.

(b) Whenever any such taxpayer shall fail, refuse or neglect to pay any installment of taxes paid or levied for the preceding tax year on or before the date on which such installment is due, there shall be added to the amount of the taxes for the current year, when computed, a penalty of ten percent to be retroactive to the respective due date in the year in which levied.

(c) Whenever an installment of the taxes so computed is not paid by the due date, such unpaid taxes shall be deemed to be delinquent. Interest on such unpaid taxes shall be charged thereon at the rate set forth in Section 26-361 from the day following the due date pursuant to Code of Virginia, § 58.1-3916.

(Code 1993, § 27-76; Code 2004, § 98-128; Code 2015, § 26-362; Ord. No. 2010-92-105, § 3, 5-24-2010; Ord. No. 2011-5-4, § 2, 1-24-2011)

Sec. 26-363. Prepayment into escrow payment plan; interest on such payments; installment payment.

(a) Any taxpayer assessed with taxes on real estate may voluntarily prepay such designated taxes at any time before such taxes have been assessed or, if assessed, before such taxes are due and payable. Such prepayment of taxes shall be paid into the City's real estate tax escrow payment plan, and interest shall be paid by the City on such prepayment at a fixed market investment rate as determined annually by the Director of Finance effective July 1 of each fiscal year. Upon payment in full of any and all taxes due from such taxpayer, the accrued interest or any

remaining portion thereof may be paid to the taxpayer or held in prepayment of tax obligations to be assessed at a later date, at the taxpayer's election, as authorized in Code of Virginia, § 58.1-3920.1.

(b) Any taxpayer assessed with taxes, which are due and payable, on real estate may pay such taxes, including any penalty and interest that may accrue or may have accrued thereon, in such installments and at such times and in such amounts as are agreed to by the Director of Finance and the taxpayer.

(Code 1993, § 27-77; Code 2004, § 98-129; Code 2015, § 26-363; Ord. No. 2006-33-54, § 1, 2-27-2006; Ord. No. 2010-92-105, § 3, 5-24-2010)

Sec. 26-364. Tax relief for elderly persons.

(a) *Exemption authorized.* Real estate tax exemption is provided for qualified property owners, who are not less than 65 years of age and who are eligible according to the terms of this section. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Freeze authorized.* Real estate tax freeze is provided for qualified property owners, who are not less than 65 years of age and who are eligible according to the terms of this section. Persons qualifying for freeze are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(c) *Freeze defined.* As used in this division, the term "tax freeze" or "freeze" refers to the total exemption of that portion of the real estate tax which represents the increase in such tax since the taxpayer initially applied and qualified for exemption under this division, so that the taxpayer's real estate tax will be frozen at the amount assessed in the tax year in which the taxpayer initially applied and qualified. If, for any tax year following the initial qualification of a taxpayer for a tax freeze such taxpayer becomes disqualified, any subsequent application for exemption by such taxpayer shall be treated as an initial application for purposes of determining the tax freeze.

(d) *Administration of exemption or freeze.* The exemption and the freeze shall be administered by the Director of Finance. The Director of Finance is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption or freeze as specified by this section. The Director of Finance may require the production of certified tax returns and appraisal reports to establish income or financial worth.

(e) *Requirements for exemption or freeze.* The taxpayer may apply for either the exemption or the freeze, but not both, and shall be granted the exemption or freeze for which they applied subject to the following provisions:

(1) The title of the property for which exemption or freeze is claimed is held, or partially held, on January 1 of the taxable year, by the person or persons claiming exemption.

(2) The head of the household occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons not less than 65 years of age. A dwelling jointly held by a husband and wife may qualify if either spouse is over 65 years of age. The fact that persons who are otherwise qualified for tax exemption or freeze by this section are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption or freeze is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

a. For purposes of this section, the sole dwelling of the person or persons eligible for an exemption or freeze in accordance with this section includes real property:

1. Held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives;

2. Held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation; or

3. Held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

b. For purposes of prorating the tax exemption authorized by this section in accordance with Code of Virginia, § 58.1-3211.1, real property that is a dwelling jointly held by two or more individuals includes real property:

1. Held by an eligible person in conjunction with one or more other people as tenant or tenants for life or joint lives;

2. Held in a revocable inter vivos trust over which an eligible person with one or more other people hold the power of revocation; or

3. Held in an irrevocable trust under which an eligible person in conjunction with one or more other people possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

The term "eligible person" does not include any interest held under a leasehold or term of years.

(3) The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the Director of Finance to be an amount not to exceed $60,000.00. Gross combined income shall include all income from all sources of the owner and of the owner's relatives living in the dwelling for which exemption or freeze is claimed, except that the income of each relative providing bona fide caregiving services to the owner whether such relative is compensated or not, other than spouse, of the owner, who is living in the dwelling, shall not be included in such total. The term "owner," as used in this subsection, shall also be construed as "owners."

(4) The total combined financial worth of the owner as of December 31 of the year immediately preceding the taxable year shall be determined by the Director of Finance to be an amount not to exceed $350,000.00. Total financial worth shall include the value of all assets, including equitable interests, of the owner and spouse of any owner, of the dwelling for which exemption or freeze is claimed, excluding the fair market value of the dwelling and the land, not exceeding one acre, upon which such dwelling is situated for which exemption or freeze is claimed.

(5) Notwithstanding other subsections of this section, if a person has already or would otherwise be qualified for an exemption or freeze under this section, and if the person can prove by clear and convincing evidence that, after so qualifying, the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, none of the relative's income shall be counted towards the income limit.

(f) *Claiming exemption or freeze.* Procedures for claiming the exemption or freeze shall be as follows:

(1) Not later than March 31 of the taxable year, the person claiming an exemption or freeze must file in writing an application or certificate therefor with the Director of Finance. In lieu of the filing of an annual application, once a taxpayer is determined to be eligible, an application may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding application filed has so changed as to violate the limitations and conditions provided therein. Such annual certification and conditions must be filed not later than March 31 of the taxable year. The Director of Finance may accept applications filed before June 15 by first-time applicants and in hardship cases.

(2) The application shall set forth, in a manner prescribed by the Director of Finance:

a. The name, age, income and net worth of the person claiming an exemption or freeze;

b. The location, assessed value and tax on the property;

c. The names of the related persons, except for those related persons living in the dwelling and providing bona fide caregiving services to the owner, whether such related persons are compensated or not, occupying the dwelling for which exemption or freeze is claimed and their gross combined income; and

d. A clear statement of whether the applicant desires to claim an exemption or a freeze.

(3) If after audit and investigation, the Director of Finance determines that the person is qualified for exemption or freeze the Director shall issue a determination letter to the person who has applied for the tax exemption or freeze regarding the person's qualification. The amount of the tax exemption or freeze shall be communicated to the taxpayer or the taxpayer's agent with each annual real estate billing presented for payment in such manner as prescribed by the Director of Finance.

(g) *Amount of exemption.* The person qualifying for and claiming exemption shall be relieved of that portion of the real estate tax levied on the qualifying dwelling and land in the amount calculated in accordance with the following schedule:

Range of Income	*Percentage of Exemption*
$0.00 to $30,000.00	100%
$30,001.00 to $40,000.00	75%
$40,001.00 to $50,000.00	50%
$50,001.00 to $60,000.00	25%

(h) *Payment of difference.* In order to avoid the payment of penalty and interest on the full amount of the taxes, the person to whom an exemption or freeze determination letter has been issued shall, on or before January 14 of the tax year for which such exemption or freeze is issued and on or before June 14 of such tax year, present to the Collector the payment of one-half of the difference between the full amount of taxes levied on the property for which the exemption or freeze is issued and the amount of the exemption or freeze. The Collector will receipt the tax bill in full and cause an amount equal to that represented by tax exemption or freeze to be transferred from the appropriation made for tax relief for the elderly to the appropriate real estate tax account. Failure to remit one-half of the payment for the difference between the full amount of the taxes levied and the amount of the exemption or freeze on or before January 14 of the tax year for which the exemption or freeze is issued or the remaining one-half of such payment on or before June 14 of such tax year shall void the tax exemption or freeze previously granted for that tax year.

(i) *Payment extension.* The Director of Finance may prescribe, adopt, promulgate and enforce rules, as well as enter into payment arrangements, that enable a person who fails to remit the nonexempt portion of the taxes levied by the due dates of the year for which the exemption or freeze is issued to retain the exemption or freeze for which they have qualified if the failure to remit the payment is due to medically determinable physical or mental impairment or extreme financial hardship, as determined by the Director of Finance. In such cases, the nonexempt portion must be paid no later than the respective tax due date of the following tax year. The failure to honor payment arrangements or remit the nonexempt portion under the terms established by the Director of Finance shall render void the tax exemption or freeze granted for the prior tax year under the terms of the extension. An extension granted under the above term, to enable the taxpayer to retain a tax exemption or freeze, shall be assessed penalty and interest, as prescribed by Code of Virginia, § 58.1-3916 and Section 26-361.

(j) *Computation of exemption or freeze when appropriation is insufficient.* In any tax year in which the amount appropriated by the City Council for the purpose of providing real estate tax relief for the elderly shall not be sufficient to afford the entire relief allowable under the computations made pursuant to subsection (e) of this section, the amount of exemption or freeze shall be computed as a fraction of that produced under the formula set out in subsection (e) of this section, the numerator of the fraction to be the amount of the appropriation for the tax year and the denominator of the fraction to be the total amount of all allowable exemptions or freezes computed under the formula shown in subsection (e) of this section.

(k) *False claim of exemption or freeze.* The false claiming of the exemption of freeze authorized in this section shall constitute a misdemeanor; any person convicted of falsely claiming such exemption of freeze shall be punished by a fine not exceeding $1,000.00 or confinement in jail not exceeding 12 months, either or both.

(l) *Effective date of exemption or freeze.* The exemption or freeze herein authorized shall be effective for

the tax year commencing January 1, 2007, and for each tax year thereafter until otherwise provided by law or ordinance.

(Code 1993, § 27-78; Code 2004, § 98-130; Code 2015, § 26-364; Ord. No. 2004-67-67, § 1, 4-13-2004; Ord. No. 2005-58-57, § 1, 4-25-2005; Ord. No. 2005-255-237, § 1, 10-24-2005; Ord. No. 2006-281-2007-15, § 1, 1-8-2007; Ord. No. 2010-92-105, § 3, 5-24-2010; Ord. No. 2010-176-179, § 1, 10-25-2010; Ord. No. 2014-115-88, § 1, 5-27-2014; Ord. No. 2019-029, § 1, 2-25-2019)

State law reference—Exemptions for elderly persons, Code of Virginia, § 58.1-3210 et seq.

Sec. 26-365. Real estate tax relief for qualified permanently and totally disabled.

(a) *Exemption authorized.* Real estate tax exemption is provided for qualified property owners who are permanently and totally disabled in accordance with the criteria set out in Va. Const. Art. X, § 6, ¶ 7(b), and Code of Virginia, Title 58.1, Ch. 32, Art. 2 (Code of Virginia, § 58.1-3210 et seq.), and who are eligible according to the terms of the State Constitution, State law and this section. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Freeze authorized.* Real estate tax freeze is provided for qualified property owners who are permanently and totally disabled in accordance with the criteria set out in Va. Const. Art. X, § 6, ¶ 7(b), and Code of Virginia, Title 58.1, Ch. 32, Art. 2 (Code of Virginia, § 58.1-3210 et seq.), and who are eligible according to the terms of the State constitution, State law and this section. Persons qualifying for freeze are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(c) *Administration of exemption or freeze.* The exemption and the freeze shall be administered by the Director of Finance. The Director of Finance is hereby authorized and empowered to prescribe, promulgate and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption or freeze as specified by this section. The Director of Finance may require the production of certified tax returns and appraisal reports to establish income or financial worth.

(d) *Requirements for exemption or freeze.* The taxpayer may apply for either the exemption or the freeze, but not both, and shall be granted the exemption or freeze for which they applied subject to the following provisions:

(1) The title of the property for which exemption or freeze is claimed is held, or partially held, on January 1 of the taxable year, by the person claiming exemption or freeze.

(2) The head of the household occupying the dwelling and owning title or partial title thereto is permanently and totally disabled. The fact that persons who are otherwise qualified for tax exemption or freeze by this section are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption or freeze is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

a. For purposes of this section, the sole dwelling of the person or persons eligible for an exemption or freeze in accordance with this section shall include real property:

1. Held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives;

2. Held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation; or

3. Held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

b. For purposes of prorating the tax exemption authorized by this section in accordance with Code of Virginia, § 58.1-3211.1, real property that is a dwelling jointly held by two or more individuals includes real property:

1. Held by an eligible person in conjunction with one or more other people as tenant or tenants for life or joint lives;

2. Held in a revocable inter vivos trust over which an eligible person with one or more other people hold the power of revocation; or

3. Held in an irrevocable trust under which an eligible person in conjunction with one or more other people possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

The term "eligible person" does not include any interest held under a leasehold or term of years.

(3) The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the director of finance to be an amount not to exceed $60,000.00. Gross combined income shall include all income from all sources of the owner and of the owner's relatives living in the dwelling for which exemption is claimed, except that the of income of each relative providing bona fide caregiving services to the owner whether such relative is compensated or not, other than spouse, of the owner, who is living in the dwelling, shall not be included in such total. The term "owner," as used in this subsection, shall also be construed as "owners."

(4) The total combined financial worth of the owner as of December 31 of the year immediately preceding the taxable year shall be determined by the Director of Finance to be an amount not to exceed $350,000.00. Total financial worth shall include the value of all assets, including equitable interests, of the owner and spouse of any owner of the dwelling for which exemption or freeze is claimed, excluding the fair market value of the dwelling and the land, not exceeding one acre, upon which such dwelling is situated for which exemption or freeze is claimed.

(5) Notwithstanding other subsections of this section, if a person has already or would otherwise be qualified for an exemption or freeze under this section, and if the person can prove by clear and convincing evidence that, after so qualifying, the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit.

(e) *Claiming exemption or freeze.* Procedures for claiming the exemption or freeze shall be as follows:

(1) Not later than March 31 of the taxable year, the person claiming an exemption or freeze must file in writing an application therefor with the Director of Finance. The Director of Finance may accept applications filed before June 15 by first-time applicants and in hardship cases. However, in lieu of filing an application annually, an application may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding application filed has so changed as to violate the limitations and conditions provided therein. Such annual certification must be filed not later than March 31 of the taxable year.

(2) The application shall set forth, in the manner prescribed by the Director of Finance:

a. The name, age, income and net worth of the person claiming an exemption or freeze and information as will establish such applicant for exemption or freeze is permanently and totally disabled;

b. The location, assessed value and tax on the property;

c. The names of the related persons, except for those related persons living in the dwelling and providing bona fide caregiving services to the owner, whether such related persons are compensated or not, occupying the dwelling for which exemption or freeze is claimed and their gross combined income; and

d. A clear statement of whether the applicant desires to claim an exemption or a freeze.

(3) If after audit and investigation the Director of Finance determines that the person is qualified for exemption or freeze, the Director shall issue a determination letter to the person who has applied for the tax exemption or freeze regarding the person's qualification. The amount of the tax exemption or freeze shall be communicated to the taxpayer or the taxpayer's agent with each annual real estate billing

presented for payment in such manner as prescribed by the Director of Finance.

(f) *Amount of exemption.* The person qualifying for and claiming exemption shall be relieved of that portion of the real estate tax levied on the qualifying dwelling and land in the amount calculated in accordance with the following schedule:

Range of Income	*Percentage of Exemption*
$0.00 to $30,000.00	100%
$30,001.00 to $40,000.00	75%
$40,001.00 to $50,000.00	50%
$50,001.00 to $60,000.00	25%

(g) *Payment of difference.* In order to avoid the payment of penalty on the full amount of the taxes, the person to whom an exemption or freeze determination letter has been issued shall, on or before January 14 of the tax year for which such exemption or freeze is issued and on or before June 14 of such tax year, present to the Collector the payment of one-half of the difference between and the full amount of taxes levied on the property for which the exemption or freeze is issued and the amount of the exemption. The Collector will receipt the tax bill in full and cause an amount equal to that represented by tax exemption or freeze to be transferred from the appropriation made for tax relief for the permanently and totally disabled to the appropriate real estate tax account. Failure to remit one-half of the payment for the difference between the full amount of the taxes levied and the amount of the exemption or freeze on or before January 14 of the tax year for which the exemption or freeze is issued or the remaining one-half of such taxes on or before June 14 of such tax year shall void the tax exemption or freeze previously granted for that tax year.

(h) *Payment extension.* The Director of Finance may prescribe, adopt, promulgate and enforce rules, as well as enter into payment arrangements, that enable a person who fails to remit the nonexempt portion of the taxes levied by the due dates of the year for which the exemption or freeze is issued to retain the exemption or freeze for which they have qualified if the failure to remit the payment is due to a medically determinable physical or mental impairment or extreme financial hardship, as determined by the Director of Finance. In such cases, the nonexempt portion must be paid not later than the respective tax due date of the following tax year. The failure to honor payment arrangements or remit the nonexempt portion under the terms established by the Director of Finance shall render void the tax exemption or freeze granted for the prior tax year under the terms of the extension. An extension granted under the above terms to enable the taxpayer to retain a tax exemption or freeze shall be assessed penalty and interest, as prescribed by Code of Virginia, § 58.1-3916 and Section 26-361.

(i) *Computation of exemption or freeze when appropriation insufficient.* In any tax year in which the amount appropriated by the City Council for the purpose of providing real estate tax relief for the permanently and totally disabled shall not be sufficient to afford the entire relief allowable under the computations made pursuant to subsection (e) of this section, the amount of exemption or freeze shall be computed as a fraction of that produced under the formula set out in subsection (e) of this section, the numerator of the fraction to be the amount of the appropriation for the tax year and the denominator of the fraction to be the total amount of all allowable exemptions or freezes computed under the formula shown in subsection (e) of this section.

(j) *False claim of exemption or freeze.* The false claiming of the exemption or freeze authorized in this section shall constitute a misdemeanor; any person convicted of falsely claiming such exemption or freeze shall be punished by a fine not exceeding $1,000.00 or confinement in jail not exceeding 12 months, either or both.

(k) *Effective date of exemption or freeze.* The exemption or freeze herein authorized shall be effective for the tax year commencing January 1, 2007, and for each tax year thereafter until otherwise provided by law or ordinance.

(Code 1993, § 27-79; Code 2004, § 98-131; Code 2015, § 26-365; Ord. No. 2004-67-67, § 1, 4-13-2004; Ord. No. 2005-58-57, § 1, 4-25-2005; Ord. No. 2005-255-237, § 1, 10-24-2005; Ord. No. 2006-281-2007-15, § 1, 1-8-2007; Ord. No. 2010-92-

105, § 3, 5-24-2010; Ord. No. 2010-176-179, § 1, 10-25-2010; Ord. No. 2014-115-88, § 1, 5-27-2014; Ord. No. 2019-029, § 1, 2-25-2019)

Sec. 26-366. Real estate tax exemption for qualified veterans.

(a) Pursuant to Code of Virginia, § 58.1-3219.5, and for tax years beginning on or after January 1, 2011, a real estate tax exemption is hereby provided for the dwelling and land, not exceeding one acre, upon which the dwelling is situated, including the joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to Federal law to have a 100 percent service-connected, permanent and total disability, and who occupies the real property as such veteran's principal place of residence. If the veteran owns a house that is his residence, including a manufactured home as defined in Code of Virginia, § 46.2-100, whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. In addition, a real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in Code of Virginia, § 58.1-3503(A)(14) and as listed in Code of Virginia, § 58.1-3504 and (ii) for other than a business purpose.

(b) The surviving spouse of a veteran eligible for the exemption set forth in this section shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, and the surviving spouse does not remarry. This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence.

(c) The veteran or surviving spouse claiming the exemption under this section shall file with the City Assessor, on forms to be supplied by the City Assessor, an affidavit or written statement:

(1) Setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property;

(2) Indicating whether the real property is jointly owned by a husband and wife; and

(3) Certifying that the real property is occupied as the veteran's principal place of residence.

The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

(Code 2004, § 98-131.1; Code 2015, § 26-366; Ord. No. 2011-122-126, § 1, 6-27-2011; Ord. No. 2016-145, § 1, 5-23-2016; Ord. No. 2018-134, § 1, 5-29-2018)

Sec. 26-367. Real estate tax exemption for surviving spouses of members of the armed forces killed in action.

(a) For purposes of this section, a determination of "killed in action" includes a determination by the U.S. Department of Defense of "died of wounds received in action."

(1) Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2015, a real estate tax exemption is hereby provided for the real property of the surviving spouse:

a. Of any member of the Armed Forces of the United States who was killed in action as determined by the U.S. Department of Defense; and

b. Who occupies the real property as such spouse's principal place of residence.

(2) Such exemption from real property taxes shall be for:

a. The qualifying dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection (b) of this section; and

b. Except land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is

situated.

If such member of the Armed Forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the Armed Forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the Armed Forces is killed in action. However, the City shall not be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by Section 26-368. If the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Code of Virginia, § 58.1-3360. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in Code of Virginia, § 58.1-3503(A)(14) and as listed in Code of Virginia, § 58.1-3504 and (ii) for other than a business purpose.

(b) Those dwellings in the City with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single-family residential shall qualify for a total exemption from real property taxes under this section. However, if the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in Code of Virginia, § 46.2-100, whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that:

(1) Are zoned as single-family residential; and

(2) Are occupied by such persons as their principal place of residence;

shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

(c) The surviving spouse of a member of the Armed Forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption provided for in this section shall apply without any restriction on the spouse's moving to a different principal place of residence.

(d) For purposes of this exemption, real property of any surviving spouse of a member of the Armed Forces killed in action includes real property:

(1) Held by a surviving spouse as a tenant for life;

(2) Held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation; or

(3) Held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support.

The term does not include any interest held under a leasehold or term of years.

(e) In the event that:

(1) A surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection (d) of this section; and

(2) One or more other persons have an ownership interest in the property that permits them to occupy the property;

then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying

the amount of the exemption by a fraction that has one as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

(f) In the event that the principal residence is jointly owned by two or more individuals, including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection (d) of this section, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by the surviving spouse and that has as a denominator of 100 percent.

(Code 2004, § 98-131.2; Code 2015, § 26-367; Ord. No. 2015-7-14, § 1, 1-26-2015; Ord. No. 2015-103-114, § 1, 5-26-2015; Ord. No. 2016-145, § 1, 5-23-2016)

Sec. 26-368. Application for exemption.

(a) The surviving spouse claiming the real estate tax exemption provided for in Section 26-367 shall file with the City Assessor, on forms to be supplied by the City Assessor, an affidavit or written statement:

(1) Setting forth the surviving spouse's name;

(2) Indicating any other joint owners of the real property; and

(3) Certifying that the real property is occupied as the surviving spouse's principal place of residence.

The surviving spouse shall also provide documentation from the United States Department of Defense or its successor agency indicating the date that the member of the Armed Forces of the United States was killed in action. The surviving spouse shall refile the information required by this section only if the surviving spouse's principal place of residence changes.

(b) The surviving spouse shall promptly notify the City Assessor of any remarriage.

(Code 2004, § 98-131.3; Code 2015, § 26-368; Ord. No. 2015-7-14, § 1, 1-26-2015)

Sec. 26-369. Sale of real estate for delinquent taxes.

(a) When real estate taxes on any real estate are delinquent on December 31 following the first anniversary of the date on which such taxes have become due, judicial proceedings may be initiated in accordance with applicable State law to sell such real estate, provided that proper notice is given in accordance with applicable State law.

(b) All qualifying real estate sold pursuant to subsection (a) of this section shall be sold only pursuant to an agreement meeting the requirements of this subsection. For purposes of this subsection, "qualifying real estate" means real estate on which the necessary activities to develop or redevelop the real estate are legally permissible under applicable law. Each agreement shall (i) impose a time period, determined by the Chief Administrative Officer or the designee thereof, within which a valid certificate of occupancy for the real estate as developed or redeveloped pursuant to the agreement must be obtained, (ii) contain a provision providing the City, through the Chief Administrative Officer or the designee thereof, with the right to require that title to and all of the purchaser's rights and interests in the real estate revert to the City in the event of the purchaser's default as to any of the purchaser's obligations under the agreement, and (iii) be approved as to form by an attorney in the Office of the City Attorney. The Chief Administrative Officer shall designate a City department to track and monitor each agreement for compliance and submit an annual report on the status of each agreement by no later than December 31 of each year.

(Code 1993, § 27-87; Code 2004, § 98-142; Code 2015, § 26-369; Ord. No. 2018-230, § 1, 12-17-2018)

State law reference—Similar provisions, Code of Virginia, § 58.1-3965 et seq.

Secs. 26-370—26-386. Reserved.

DIVISION 3. PARTIAL EXEMPTION OF REHABILITATED STRUCTURES FROM REAL ESTATE TAXATION*

***Editor's note—**Sections 26-387 to 26-398 are repealed by Section 1 of Ordinance No. 2020-130, effective January 1, 2021.

State law reference—Partial exemption for certain rehabilitated, renovated or replacement structures, Code of Virginia, § 58.1-3220 et seq.

Sec. 26-387. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition means an increase in the square footage of a qualified structure that expands the utility of such structure.

Base value means the assessed value of real estate for which an application has been filed in accordance with this division, as set forth in the land book on January 1 of the tax year in which such application is filed.

Commercial or industrial real estate means land containing a structure or other improvement constructed or used for nonresidential purposes in accordance with this Code and other applicable law or a mixed-use development.

Linear feet means the shortest distance from one point to another, measured horizontally in feet, where one foot is equal to 12 inches.

Mixed-use development means a structure or other improvement constructed for both residential and commercial uses where at least ten percent of the total square footage of such structure or other improvement is comprised of commercial space.

Multifamily residential real estate means land containing a structure or other improvement of five or more units constructed or used for residential purposes in accordance with this Code and other applicable law.

Qualified structure means a structure or other improvement that has qualified for rehabilitation, renovation or replacement in accordance with this division.

Rehabilitation means the process of restoring a qualified structure through:

(1) Renovation;

(2) Replacement; or

(3) Renovation and the construction of an addition.

Renovation means the process of updating the utility of a qualified structure, in whole or in part, including, but not limited to, the partial destruction and rebuilding of such structure.

Replacement means the process of demolishing a qualified structure for which an application has been filed in accordance with this division and subsequently replacing such structure by constructing a new structure on the same real estate upon which the qualified structure was situated.

Residential real estate means land containing a structure or other improvement of four or fewer units constructed or used for residential purposes in accordance with this Code and other applicable law.

Square footage means the area of a structure or other improvement measured in square feet.

Substantially rehabilitated means:

(1) For residential real estate, rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 20 percent of the base value;

(2) For multifamily residential real estate, rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 40 percent of the base value; and

(3) For commercial or industrial real estate, rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 40 percent of the base value.

(Code 2004, § 98-148; Code 2015, § 26-397; Ord. No. 2014-117-90, § 2, 5-27-2014)

Cross reference—Definitions generally, § 1-2.

Sec. 26-388. Partial exemption provided for certain rehabilitated, renovated or replacement residential, multifamily, commercial or industrial structures, or other improvements.

In accordance with the criteria set out in Va. Const. Art. X, ¶ 6(h) and Code of Virginia, §§ 58.1-3220 and 58.1-3221, partial exemption is hereby provided from taxation of real estate on which any qualified structure has

undergone substantial rehabilitation for residential, multifamily, commercial or industrial use, subject to the conditions set forth in this division.

(Code 2004, § 98-149; Code 2015, § 26-398; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-389. Eligibility for partial exemption of rehabilitated residential and multifamily structures or other improvements.

(a) *Residential real estate.* In order to qualify for the partial exemption set forth in Section 26-392, qualified structures on residential real estate must meet the following requirements:

(1) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application.

(2) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division but prior to the expiration date of such application as provided in Section 26-390.

(3) For qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for residential use, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 100 percent.

(b) *Multifamily residential real estate.* In order to qualify for the partial exemption set forth in Section 26-391, qualified structures on multifamily residential real estate shall meet the following requirements:

(1) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application.

(2) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division but prior to the expiration date of such application as provided in Section 26-390.

(3) For qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for use as multifamily residential real estate, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 30 percent.

(c) *Determination of age and linear feet of original exterior walls of a structure or other improvement.* For purposes of determining the age of a structure or other improvement for which an application for partial tax exemption has been filed in accordance with this division, the earliest assessment date of the structure or other improvement in the records of the City Assessor shall be used to calculate the age of such structure or other improvement. For purposes of determining the total linear feet of the exterior walls of a structure or other improvement as such structure or other improvement existed 20 years before the date that an application for partial tax exemption has been filed in accordance with this division, the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application as reflected in the records of the City Assessor shall be used. In determining the total linear feet of the exterior walls of the structure or other improvement for purposes of this division, the City Assessor shall employ usual and customary methods of determining the linear feet of exterior walls of structures or other improvements.

(d) *Determination of square footage of addition.* Upon inspection of the qualified structure to determine if it then qualifies for the partial exemption in accordance with Section 26-390, the City Assessor shall determine the square footage of any addition constructed in accordance with the requirements of this division. In determining the

square footage of the addition, the City Assessor shall employ usual and customary methods of determining the square footage of real estate.

(Code 2004, § 98-150; Code 2015, § 26-399; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-390. Application for partial exemption of rehabilitated residential real estate or multifamily residential real estate.

In order to qualify for the partial exemption provided for in Section 26-391, the owner of residential real estate or multifamily residential real estate shall, prior to commencement of rehabilitation and after making application for a building permit for the rehabilitation of such structure, file with the City Assessor, upon forms furnished by the City Assessor, an application to qualify the structure or other improvements upon residential real estate or multifamily residential real estate as a qualified structure. Upon receipt of an application for the partial exemption, the City Assessor shall provide written notification to the owner of such residential real estate or multifamily residential real estate of the base value of the qualified structure. Such notice shall also notify the property owner that such property owner may appeal the base value in accordance with the applicable provisions of this Code or State law, in which case the base value as subsequently determined by the City Assessor, the City of Richmond Board of Review of Real Estate Assessments or a court of competent jurisdiction upon such appeal shall be the base value for purposes of this section. The application to qualify for the partial exemption shall be effective until two years from the date on which the application is submitted. If by such expiration date rehabilitation has not progressed to such a point that the qualified structure has been substantially rehabilitated, a new application to qualify for tax exemption must be filed. Upon such filing, the City Assessor shall, in accordance with the notice requirements of this subsection, provide the property owner with notification of the base value of the property as set forth in the land book on January 1 of the tax year in which such new application is filed. The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $250.00, which fee shall be applied to offset the cost of processing such application, making required assessments, and making annual inspections to determine the progress of the work. During the period between the receipt of the application and the time at which the City Assessor ascertains that the qualified structure has been substantially rehabilitated, the City Assessor shall, at such time during the year as the City Assessor may fix by regulation, make annual inspections of progress of the rehabilitation undertaken, and the owner of the property shall be subject to taxation upon the full value of the improvements to the property. Once rehabilitation of a qualified structure is complete, an owner may, at any time prior to the expiration date of the application, submit a written request to the City Assessor to inspect the qualified structure to determine if it then qualifies for the partial exemption. When it is determined that the minimum required increase in the assessed value has occurred, the partial exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the partial exemption, no more than one additional application to qualify for partial exemption from real estate taxation for rehabilitated structures may be accepted for the same property. However, upon any approval of a partial exemption based on any such additional application for partial exemption, the owner of the residential real estate or multifamily residential real estate shall waive all rights to and interest in any unexpired partial exemption existing at the time that an additional application to qualify for partial exemption from real estate taxation for rehabilitated structures for the same property is approved for partial exemption, and such unexpired partial exemption shall cease. If the owner of the residential real estate or multifamily residential real estate fails or refuses to waive such rights or interest, the approval of the partial exemption based on the additional application for partial exemption shall be revoked, but the existing partial exemption shall continue in effect for the remainder of the applicable exemption period. In addition, no such application shall be for the:

(1) Renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age;

(2) Replacement of a qualified structure on which an existing partial exemption is based;

(3) Construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age; or

(4) Any combination of subsection (1), (2) or (3) of this section.

(Code 2004, § 98-151; Code 2015, § 26-400; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-391. Amount of exemption for rehabilitated residential or multifamily qualified structures.

Except as provided in Section 26-390 with regard to a property for which an additional application has been approved for partial exemption, the owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a residential or multifamily structure, or other improvement, shall receive a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of a seven-year period of exemption in the full amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property and for the three-year period following the initial seven years, a credit for 75 percent in year eight, 50 percent in year nine and 25 percent in year ten of the full amount of the partial exemption. However, for any structure which has been substantially rehabilitated by replacement or by renovation and the construction of an addition, the owner of property qualifying for partial exemption of real estate taxes shall not receive a credit for any amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value attributable to any square footage exceeding the applicable limitations on square footage established by Section 26-389(a)(3) and (b)(3). No exemption shall be issued during the effective period of an exemption for any rehabilitation on the same property for which an additional application has been filed for residential real estate in accordance with Section 26-400 that is achieved through the:

(1) Renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age;

(2) Replacement of a qualified structure on which an existing partial exemption is based;

(3) Construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age; or

(4) Any combination of subsection (1), (2) or (3) of this section.

An increase in assessment occurring after the first year of such the partial exemption shall not qualify for an increase in such partial exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which the credit has been issued. The credit shall be charged against an appropriation made by the Council for the purpose of honoring such tax rehabilitation exemptions. No property may have more than one credit in a given year.

(Code 2004, § 98-152; Code 2015, § 26-401; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-392. Eligibility for partial exemption of rehabilitated commercial and industrial structures or other improvements.

In order to qualify for the partial exemption provided for in Section 26-394, qualified structures on commercial or industrial real estate shall meet the following requirements:

(1) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application. For purposes of determining the age of a structure or other improvement for which an application for partial tax exemption has been filed in accordance with this division, the earliest assessment date of the structure or other improvement in the records of the City Assessor shall be used to calculate the age of such structure or other improvement. For purposes of determining the total linear feet of the exterior walls of a structure or other improvement as such structure or other improvement existed 20 years before the date that an application for partial tax exemption has been filed in accordance with this division, the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application as reflected in the records of the City Assessor shall be used. In determining the total linear feet of the exterior walls of the structure or other improvement for purposes of this division, the City Assessor shall employ usual and customary methods of determining the linear feet of exterior walls of structures or other improvements.

(2) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division, but prior to the expiration date of such application as provided in Section

26-393. For commercial or industrial qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for commercial or industrial use, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 100 percent. Upon inspection of the qualified structure to determine if it then qualifies for the partial exemption in accordance with Section 26-393, the City Assessor shall determine the square footage of any addition constructed in accordance with the requirements of this division. In determining the square footage of the addition, the City Assessor shall employ usual and customary methods of determining the square footage of real estate.

(Code 2004, § 98-153; Code 2015, § 26-402; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-393. Application for partial exemption of rehabilitated commercial or industrial structures, or other improvements.

In order to qualify for the partial exemption provided for in Section 26-394, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of commercial or industrial qualified structures shall, prior to commencement of rehabilitation and after making application for a building permit to rehabilitate such structure, file with the City Assessor, upon forms furnished by the City Assessor, an application to qualify such structure or other improvement as a qualified structure rehabilitated for commercial or industrial use. Upon receipt of an application for tax exemption, the City Assessor shall provide written notification to the owner of such commercial or industrial qualified structure, or other improvement, of the base value of the qualified structure. Such notice shall also notify the property owner that such property owner may appeal the base value in accordance with the applicable provisions of this Code or State law, in which case the base value as subsequently determined by the City Assessor, the City of Richmond Board of Review of Real Estate Assessments or a court of competent jurisdiction upon such appeal shall be the base value for purposes of this section. The application to qualify for tax exemption shall be effective until two years from the date on which the application is submitted. If by such expiration date rehabilitation has not progressed to such a point that the qualified structure has been substantially rehabilitated to retain such eligibility, a new application to qualify for tax exemption must be filed. Upon such filing, the City Assessor shall, in accordance with the notice requirements of this subsection, provide the property owner with notification of the base value of the property as set forth in the land book on January 1 of the tax year in which such new application is filed. The initial application to qualify for the partial exemption and any subsequent application must be accompanied by a payment of a fee in the amount of $250.00, which fee shall be applied to offset the cost of processing such application, making required assessments, and making an annual inspection to determine the progress of the work. During the period between the receipt of the application and the time at which the City Assessor ascertains that the structure has been substantially rehabilitated, the City Assessor shall, at such time during the year as the City Assessor may fix by regulation, make an annual inspection of progress of the rehabilitation undertaken, and the owner, including the possessor of leasehold interest as defined in Code of Virginia, § 58.1-3203, of the property shall be subject to taxation upon the full value of the improvements to the property. An owner, as provided in this section, may, at any time prior to the expiration date of the application and once rehabilitation of a qualified structure is complete, submit a written request to the City Assessor to inspect the structure to determine if it then qualifies for the partial exemption from real estate taxation for which Section 26-394 provides. When it is determined that the minimum required increase in the assessed value has occurred (i.e., the base value is exceeded by 40 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the partial exemption, no more than one additional application to qualify for partial exemption from real estate taxation for rehabilitated structures may be accepted for the same property. However, upon any approval of a partial exemption based on any such additional application for partial exemption, the owner of the commercial or industrial qualified structures shall waive all rights to and interest in any unexpired partial exemption existing at the time that an additional application to qualify for partial exemption from real estate taxation for rehabilitated structures for the same property is approved for partial exemption, and such unexpired partial exemption shall cease. If the owner of the commercial or industrial qualified structures fails or refuses to waive such rights or interest, the approval of the partial exemption based on the additional application for partial exemption shall be revoked, but the existing partial exemption shall continue in effect for the remainder of the applicable exemption period. In addition, no such application shall be for the:

(1) Renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age;

(2) Replacement of a qualified structure on which an existing partial exemption is based;

(3) Construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age; or

(4) Any combination of subsection (1), (2) or (3) of this section.

(Code 2004, § 98-154; Code 2015, § 26-403; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-394. Amount of exemption for rehabilitated commercial or industrial qualified structures.

Except as provided in Section 26-393 with regard to a property for which an additional application has been approved for partial exemption, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of property qualifying for partial exemption of real estate taxes because of rehabilitation of a commercial or industrial qualified structure shall be issued a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the five-year period of partial exemption from real estate taxes and, in each year of a two-year period following the initial five years, a credit for the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property, at 66 percent in year six and 33 percent in year seven of the full amount of the partial exemption. Commercial or industrial qualified structures that are located within Council-designated enterprise zones established pursuant to the Enterprise Zone Act, Code of Virginia, § 59.1-279 et seq., are no less than 20 years old, and are otherwise qualified under this division shall be entitled to a seven-year period of exemption in the full amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the seven years and for the three-year period following the initial seven years, a credit for 75 percent in year eight, 50 percent in year nine and 25 percent in year ten of the full amount of the partial exemption. No exemption shall be issued during the effective period of an exemption for any rehabilitation on the same property for which an additional application has been filed for residential real estate in accordance with Section 26-393 that is achieved through the:

(1) Renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age;

(2) Replacement of a qualified structure on which an existing partial exemption is based;

(3) Construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age; or

(4) Any combination of subsection (1), (2) or (3) of this section.

An increase in assessment occurring after the first year of the partial exemption shall not qualify for an increase in such partial exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which such credit has been issued. Each credit shall be charged against an appropriation made by the Council for the purpose of honoring such tax rehabilitation exemptions.

(Code 2004, § 98-155; Code 2015, § 26-404; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-395. Partial exemption runs with real estate; penalty for nonpayment of taxes; forfeiture of exemption.

(a) *Exemption runs with real estate.* Exemption from taxation of real property qualifying for the partial tax exemption provided for in Sections 26-391 and 26-394 shall run with the real estate, and the owner of such property, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, during each of the years of partial exemption shall be entitled to receive a credit for such partial exemption from taxation.

(b) *Penalty for nonpayment of taxes.* Whenever the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of real property that has qualified for partial exemption of real estate taxes in accordance with this division shall fail to pay one-half of the nonexempted amount of real estate taxes on the property on or before January 14 of any tax year or the remaining one-half of such taxes on or before June 14 of any tax year, a penalty shall be added for that installment of one-half of ten percent of the real estate taxes which were claimed for exemption in that tax year.

(c) *Forfeiture of exemption.* For real property qualifying for partial exemption of real estate taxes in accordance with this division, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at the rate set forth in Section 26-361 on the nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30, if June 30 falls on a weekend, of the tax year in question.

(Code 2004, § 98-156; Code 2015, § 26-405; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-396. Demolition of certain structures; rehabilitation of structures in old and historic districts and design overlay districts; improvements on vacant land not qualified.

(a) *Demolition of certain structures.* For substantially rehabilitated structures or other improvements on residential real estate or multifamily residential real estate, no exemption shall be allowed if the substantial rehabilitation is achieved through the demolition and replacement of any structure either registered as a Virginia Landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic district, regardless of any changes in ownership or of any changes in the boundaries of the parcel, either or both, that may occur after the demolition, whether any such change is achieved by splitting such parcel, combining such parcel with another parcel or otherwise. For substantially rehabilitated commercial or industrial structures or other improvements, no exemption shall be allowed if the substantial rehabilitation is achieved through the demolition and replacement of any structure either registered as a Virginia Landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark, regardless of any changes in ownership or of any changes in the boundaries of the parcel, either or both, that may occur after the demolition, whether any such change is achieved by splitting such parcel, combining such parcel with another parcel or otherwise. If any qualified structure is designated as a Virginia Landmark, listed as a structure contributing to the significance of a registered historic district or listed as a structure contributing to the significance of a registered historic landmark, and the exterior of such structure is or is proposed to be altered in any manner during the rehabilitation process provided for in this division, the City Assessor shall obtain written confirmation from the Director of Planning and Development Review or the designee thereof that such rehabilitation complies with the requirements of such designation or listing in order to continue with the qualifying process. If additional guidance is needed concerning whether such rehabilitation complies with the requirements of such designation or listing, the Director of Planning and Development Review or the designee thereof may seek technical assistance from the Virginia Department of Historic Resources for further clarification.

(b) *Rehabilitation of structures in old and historic districts and design overlay districts.* For substantially rehabilitated structures or other improvements subject to the provisions of Chapter 30, Article IX, Division 4 or 5, no exemption shall be allowed if such substantial rehabilitation is achieved through or results in a violation of the provisions of Chapter 30, Article IX, Division 4 or 5, or if the owner of any such structure or other improvement has not obtained the approval required by Section 30-930.6 for old and historic districts or the approval required by Section 30-940.7 for design overlay districts.

(c) *Improvements on vacant land not qualified.* No improvements made upon vacant land shall be eligible for the partial exemption from real estate taxation provided for in this division. For purposes of this subsection, the phrase "vacant land" means real estate with no structures or other improvements.

(Code 2004, § 98-157; Code 2015, § 26-406; Ord. No. 2014-117-90, § 2, 5-27-2014; Ord. No. 2015-25-50, § 1, 3-9-2015)

Sec. 26-397. Classification of rehabilitated structures eligible for partial tax exemption; application forms; rules and regulations.

(a) The City Assessor shall identify real property that qualifies for a partial tax exemption for a rehabilitated structure or other improvement. For the first year that any property is found to be qualified for such exemption, the City Assessor shall identify the property in the appropriate class. Any qualifying property shall be so identified for the full period of exemption provided for the appropriate class, and the owner of the property shall be entitled to receive a credit for each year so listed. The City Assessor shall furnish to the Director of Finance a list of all

properties with qualified structures for which application has been made in accordance with this division, which list shall show the base value and initial rehabilitated assessed value for each qualified structure so that the Director of Finance may issue the appropriate credits to owners of the qualified structures.

(b) The Director of Finance, upon receipt of notice from the City Assessor that a structure has been found to be qualified for and eligible for partial tax exemption as a rehabilitated structure or other improvement, shall cause to be issued a credit in an amount equal to the difference in taxes as computed upon the base value and the initial rehabilitated assessed value. The credit shall be issued in the name of the owner of the property. Whenever practicable, such credit shall be forwarded with the tax statement for such qualified structure.

(c) The City Assessor shall cause to be prepared and shall have for distribution in the Office of the City Assessor and in the Office of the Commissioner of Buildings applications for use by property owners who propose to rehabilitate eligible structures or other improvements.

(d) The City Assessor may prescribe such rules and regulations as the City Assessor deems necessary for processing applications for exemption for rehabilitated property and exempting the property. A copy of any such rules and regulations shall be available in the Office of the City Assessor and the Office of Commissioner of Buildings, as well as in the Office of the City Clerk.

(Code 2004, § 98-158; Code 2015, § 26-407; Ord. No. 2014-117-90, § 2, 5-27-2014)

Sec. 26-398. Effective date of exemption.

The partial exemption authorized in this division shall be effective for applications for partial tax exemption filed on or after May 27, 2014, and for each year thereafter for properties which qualify and for which application is made in accordance with this division.

(Code 2004, § 98-159; Code 2015, § 26-408; Ord. No. 2014-117-90, § 2, 5-27-2014)

Secs. 26-399—26-408. Reserved.

DIVISION 4. PARTIAL EXEMPTION OF CERTAIN REHABILITATED STRUCTURES FROM REAL ESTATE TAXATION*

***Editor's note—**Ord. No. 2020-130, §§ 3—7 provide as follows:

§ 3. That this ordinance shall not be construed as a revocation of any partial exemption of any real estate issued in accordance with the applicable provisions of the Code of the City of Richmond in effect prior to the effective date of this ordinance and that any partial exemption from real estate taxation for rehabilitated structures granted prior to the effective date of this ordinance shall continue in force and effect in accordance with the applicable provisions of the Code of the City of Richmond in effect prior to the effective date of this ordinance.

§ 4. That the Chief Administrative Officer shall cause the Director of Housing and Community Development to furnish the Council with a proposed version of the rules and regulations for which section 26-402 of the Code of the City of Richmond (2015) as established by section 2 of this ordinance provides by no later than October 1, 2020, and to furnish the Council with the final version of such rules and regulations by no later than December 31, 2020.

§ 5. That the Chief Administrative Officer shall cause to be collected from residents and businesses within the City of Richmond feedback concerning the partial exemption program set forth in section 2 of this ordinance.

§ 6. That sections 1 and 2 of this ordinance shall be in force and effect on January 1, 2021.

§ 7. That sections 3, 4, 5, 6, and 7 of this ordinance shall be in force and effect upon adoption.

Sec. 26-409. Purpose.

The purpose of this division is to reduce or eliminate concentrations of blight, stimulate investment and encourage the improvement of real property within the City of Richmond.

(Code 2015, § 26-408.1; Ord. No. 2019-338, § 2(26-408.1), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-410. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition means an increase in the square footage of a qualified structure that expands the utility of such structure.

Base value means the assessed value of real estate for which an application has been filed in accordance with this division, as set forth in the land book on January 1 of the tax year in which such application is filed.

Linear feet means the shortest distance from one point to another, measured horizontally in feet, where one foot is equal to 12 inches.

Multifamily dwelling means land containing a structure or other improvement of five or more units constructed or used for residential purposes in accordance with this Code and other applicable law.

Qualified structure means a structure or other improvement no less than 20 years of age that has qualified for rehabilitation, renovation or replacement in accordance with this division.

Rehabilitation means the process of restoring a qualified structure through:

(1) Renovation;

(2) Replacement; or

(3) Renovation and the construction of an addition.

Renovation means the process of updating the utility of a qualified structure, in whole or in part, including, but not limited to, the partial destruction and rebuilding of such structure.

Replacement means the process of demolishing a qualified structure for which an application has been filed in accordance with this division and subsequently replacing such structure by constructing a new structure on the same real estate upon which the qualified structure was situated.

Single-family dwelling means land containing a structure or other improvement of one to four units constructed or used for residential purposes in accordance with this Code and other applicable law.

Square footage means the area of a structure or other improvement measured in square feet.

Substantially rehabilitated means rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 40 percent of the base value for multifamily dwellings and by no less than 20 percent of the base value for single-family dwellings.

(Code 2015, § 26-408.2; Ord. No. 2019-338, § 2(26-408.2), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-411. City Assessor and Director of Housing and Community Development duties; evaluation of exemption program.

(a) The City Assessor shall, upon application made to the City Assessor and to the Director of Housing and Community Development in accordance with Section 26-404, conduct such inspections of the real property for which an application has been filed in accordance with this division, determine the base value of the such property and, upon completion of the rehabilitation, renovation or replacement of a qualified structure, determine the amount of the increase in assessed value of the subject property resulting from the rehabilitation, renovation or replacement of such qualified structure. Upon confirmation from the Director of Housing and Community Development that all of the applicable requirements of this division have been met, the City Assessor shall issue the partial exemption from real property tax of real property that has undergone substantial rehabilitation, renovation or replacement for multifamily dwelling or single-family dwelling use in accordance with this division.

(b) The Director of Housing and Community Development shall, upon application made to the City Assessor and to the Director of Housing and Community Development in accordance with Section 26-404, review such application, conduct such inspections, and gather such information, to the extent permitted by law, as the Director of Housing and Community Development deems necessary to evaluate each applicant's compliance with the requirements of this division. The Director of Housing and Community Development shall notify the City Assessor on or before the deadline established by the rules and regulations issued in accordance with Section 26-402 concerning which applications have met the requirements of this division and are therefore eligible for the partial exemption for which this division provides.

(c) Beginning with the fifth year after the ordinance providing for this division becomes effective, the Chief

Administrative Officer shall evaluate the partial tax exemption program herein created by no later than June 30 every five years that the program established by this division is in effect and shall make a recommendation and present the program evaluation results to the City Council as to whether or not the partial tax exemption program established by this division should continue in effect.

(d) The evaluation criteria shall include, but not necessarily be limited to:

(1) The number of applications submitted;

(2) The number of applications approved for consideration by the City Assessor;

(3) The number, type and description of properties qualifying for partial tax exemption under this division;

(4) The total dollar amount of the resulting assessment credit ordered;

(5) The revenue impact on the City both with and without the existence of the program; and

(6) Any other quantifiable data that can be used to measure the overall effect of the program.

(Code 2015, § 26-408.3; Ord. No. 2019-338, § 2(26-408.3), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-412. Rules and regulations for administration of division.

The Director of Housing and Community Development, with the advice and comment of the City Assessor, shall develop and implement such rules and regulations not inconsistent with the provisions of this division as the Director of Housing and Community Development deems necessary for the effective administration of this division. Such rules and regulations shall include, at a minimum, guidelines regarding eligibility requirements, application requirements, and set forth the responsibilities of the City Assessor and the Director of Housing and Community Development for purposes of implementing the program for which this division provides.

(Code 2015, § 26-408.4; Ord. No. 2019-338, § 2(26-408.4), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-413. Eligibility of residential real property; annual renewal application.

(a) In order to qualify for the partial exemption from real property taxation for real property rehabilitated, renovated or replaced for multifamily dwelling or single-family dwelling use, throughout the exemption period established by Section 26-405(a), (i) the rehabilitated, renovated or replacement structure for multifamily dwelling use must be a multifamily dwelling, a minimum of 30 percent of which provides housing restricted to individuals or families making up to 80 percent of the area median income for the Richmond-Petersburg Metropolitan Statistical Area with a maximum rent, calculated annually, no greater than 30 percent of the income of any such individual or family and (ii) for single-family dwellings, the rehabilitated, renovated or replacement structure for single-family dwelling use must be a single-family dwelling, a minimum of 30 percent which provides housing restricted to individuals or families making up to 80 percent of the area median income for the Richmond-Petersburg Metropolitan Statistical Area. In addition, the qualified structure must have been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application. For purposes of determining the age of a structure or other improvement for which an application for partial tax exemption has been filed in accordance with this division, the earliest assessment date of the structure or other improvement in the records of the City Assessor shall be used to calculate the age of such structure or other improvement. For purposes of determining the total linear feet of the exterior walls of a structure or other improvement as such structure or other improvement existed 20 years before the date that an application for partial tax exemption has been filed in accordance with this division, the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application as reflected in the records of the City Assessor shall be used. In determining the total linear feet of the exterior walls of the structure or other improvement for purposes of this division, the City Assessor shall employ usual and customary methods of determining the linear feet of exterior walls of structures or other improvements. Any portion of a multifamily dwelling or single-family dwelling that is commercial space shall not be eligible for the exemption for which this division provides. Any multifamily dwelling or single-family dwelling that does not meet the applicable minimum percentage for housing restricted to individuals or families making up to 80 percent of the area median income for the Richmond-Petersburg Metropolitan Statistical Area set forth in this section, that exceeds the maximum rent set forth in this section, or that does not have the dwelling units

in such multifamily dwelling interspersed among dwelling units offered for rent to individuals or families making more than 80 percent of the area median income for the Richmond-Petersburg Metropolitan Statistical Area shall not be eligible for the exemption for which this division provides.

(b) In order to qualify for the partial exemption from real property taxation for real property rehabilitated, renovated or replaced for multifamily dwelling or single-family dwelling use, the qualified structure must be substantially rehabilitated after the date on which an application is filed in accordance with this division, but prior to the applicable deadline set forth in subsection (d) of this section. For qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for multifamily dwelling or single-family dwelling use, the total square footage of any such replacement structure or addition shall not exceed the total square footage of the qualified structure or other improvement by more than 100 percent. If the total square footage of the qualified replacement structure or addition exceeds the total square footage of the qualified structure by more than 100 percent, the rehabilitated, renovated or replaced qualified structure shall not be eligible for a partial exemption pursuant to this division.

(c) In order for the partial exemption for a property to continue in effect, such property shall be maintained in compliance with the provisions of the Virginia Uniform Statewide Building Code. If, after receiving notice of a violation of this section, the owner of the property fails or refuses to complete the necessary corrections within the time required for such action, or refuses City inspectors, City appraisers, or other City employees performing duties in accordance with this division or applicable provisions of this Code access to all or any portion of the subject property for the purpose of determining continued eligibility under this section, then such eligibility shall terminate.

(d) The rehabilitation, renovation or replacement, as applicable, must be completed within two years after the date the building permit applied for in accordance with this division has been issued or, if no building permit is required in accordance with applicable laws and regulations, within two years after the date of the application filed in accordance with this division.

(e) The rehabilitation, renovation or replacement, if any, must be in conformity with the general character and quality of the existing structures in the surrounding community, as determined by the Director of Housing and Community Development.

(f) In order to retain the partial exemption for which this division provides, each owner of real property that has qualified for partial exemption of real estate taxes under this division shall annually file a renewal application with the Director of Housing and Community Development on forms to be prescribed by the Director of Housing and Community Development, and any other documentation as may be required by the Director of Housing and Community Development, on or before the deadline established by the rules and regulations issued in accordance with Section 26-402 until such partial exemption expires or is otherwise terminated for failure to comply with the requirements of this division or other applicable law. The partial exemption for which this division provides shall terminate if any owner of real property fails to comply with the requirements of this subsection. In the case of any such termination of the partial exemption for which this division provides, the partial exemption for the tax year in which the date upon which the renewal application is due falls and for all subsequent tax years remaining in the exemption period for such real property shall be forfeited and the credit for the tax year in which the date upon which the renewal application is due falls and for all subsequent tax years remaining in the exemption period shall be canceled and shall be of no effect.

(Code 2015, § 26-408.5; Ord. No. 2019-338, § 2(26-408.5), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-414. Application.

(a) No partial exemption from real property tax under this division shall be issued for real property (i) whose owner or such owner's agent has not submitted an application to the City Assessor and to the Director of Housing and Community Development for partial tax exemption in accordance with this division prior to construction, (ii) whose owner has failed to pay any amount of nonexempt real estate taxes, (iii) whose owner has failed to submit design plans to the City Assessor and the Director of Housing and Community Development or (iv) that is receiving any other real estate tax exemption authorized by this Code.

(b) As a prerequisite for initially qualifying for partial tax exemption under this division, the owner or agent of the owner of real property shall, on or before the application deadline established by the rules and regulations issued in accordance with Section 26-402, file simultaneously and prior to any work being started on the subject

property (i) an application for partial exemption of real property from taxation with the City Assessor (ii) a copy of the application filed with the City Assessor in numeral (i) above with the Director of Housing and Community Development, and, to the extent required by applicable laws and regulations, (iii) an application for a building permit. For single-family dwellings and multifamily dwellings containing no more than five units, each application for such exemption filed with the City Assessor shall be accompanied by a processing fee in the amount of $125.00. For multifamily dwellings offered or to be offered for rent, excluding condominiums, containing six more units, each application for such exemption filed with the City Assessor shall be accompanied by a processing fee in the amount of $250.00. No property shall be eligible for such exemption unless all appropriate building permits have been acquired and the Director of Housing and Community Development has verified that the rehabilitation, renovation or replacement indicated on the application has been completed and a certificate of occupancy has been issued. Furthermore, no property shall be eligible for such exemption if any City inspector, City appraiser, or other City employee performing duties in accordance with this division or applicable provisions of this Code have been denied access to all or any portion of the subject property before, during or after the work for which a partial exemption has been applied, for purposes of determining whether the rehabilitation, renovation or replacement has been completed and for appraising the property.

(c) Upon receipt of an application for partial exemption in accordance with this division, the City Assessor shall provide written notification to the owner of any such real estate of the base value of the qualified structure. Such notice shall also notify the property owner that such property owner may appeal the base value in accordance with the applicable provisions of this Code or State law, in which case the base value as subsequently determined by the City Assessor, the City of Richmond Board of Review of Real Estate Assessments or a court of competent jurisdiction upon such appeal shall be the base value for purposes of this section.

(d) The applicant shall bear the burden of proof to show that the property for which a partial exemption has been applied complies with all requirements established by this division. The Director of Housing and Community Development shall require documented proof of eligibility and compliance with the requirements of this division, and, in such cases, the applicant shall present documentation satisfactory to the Director of Housing and Community Development.

(Code 2015, § 26-408.6; Ord. No. 2014-117-90, § 3, 5-27-2014; Ord. No. 2019-338, § 2(26-408.6), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-415. Amount of exemption; basis for taxes during construction.

(a) The amount of the partial exemption from real property taxation provided for by this division shall be an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of a qualified structure for multifamily dwelling or single-family dwelling use as determined by the City Assessor. This amount only, on a fixed basis, shall constitute the exemption, notwithstanding subsequent market appreciation or depreciation, assessment, reassessment or future improvements. In no event shall the exemption exceed the increase in assessed value resulting from the rehabilitation, renovation or replacement of a qualified structure for multifamily dwelling or single-family dwelling use as determined by the City Assessor. The exemption shall commence on January 1 of the year following completion of the rehabilitation, renovation or replacement of a qualified structure for multifamily dwelling use and shall run with the real estate for 15 years.

(b) No partial exemption under this division shall be issued during the construction phase of the rehabilitation, renovation or replacement of a qualified structure for multifamily dwelling or single-family dwelling use. Prior to completion of the new structure or other improvements, taxes shall be based upon the full assessed value of the property when assessed.

(Code 2015, § 26-408.7; Ord. No. 2019-338, § 2(26-408.7), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-416. Penalty for nonpayment of real estate taxes; forfeiture of exemption.

Whenever the owner of real property which has qualified for partial exemption of real estate taxes under this division fails to pay one-half of the nonexempted amount of real estate taxes on the property on or before January 14 of any tax year or the remaining one-half of such amount on or before June 14 of any tax year:

(1) A penalty of ten percent shall be applied to any such installment due on the taxes for the full assessed value of the property for that tax year;

(2) The partial exemption for that tax year and all subsequent years of any remaining exemption period shall be forfeited; and

(3) The annual credit issued for that tax year and all subsequent years of any remaining exemption period shall be canceled and shall be of no effect.

The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at ten percent per annum on the nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30 of the tax year in question if June 30 falls on a weekend.

(Code 2015, § 26-408.8; Ord. No. 2019-338, § 2(26-408.8), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-417. Land book.

Nothing in this division shall be construed so as to permit the City Assessor to list upon the land book any reduced value due to the exemption provided by this division.

(Code 2015, § 26-408.9; Ord. No. 2019-338, § 2(26-408.9), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-418. Demolition.

The exemption provided in this division shall not apply where rehabilitation is achieved through demolition and replacement of an existing structure that is a Virginia registered landmark or is determined by the Virginia Department of Historic Resources to contribute to the significance of a registered historic district.

(Code 2015, § 26-408.10; Ord. No. 2019-338, § 2(26-408.10), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Sec. 26-419. False statements.

The making of any false statement in any application, affidavit or other information supplied for the purpose of eligibility determination under this division shall constitute a Class 2 misdemeanor.

(Code 2015, § 26-408.11; Ord. No. 2019-338, § 2(26-408.11), 1-27-2020; Ord. No. 2020-130, § 2, 6-22-2020)

Secs. 26-420—26-429. Reserved.

DIVISION 5. ENFORCEMENT

Sec. 26-430. Penalty.

(a) Whenever any taxpayer shall fail, refuse or neglect to pay any property taxes levied under Sections 26-458 and 26-460 on or before June 5 or within 60 days of acquiring a tax situs in the City in the year for which they are levied, there shall be added a penalty of ten percent of the total taxes due or $10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax.

(b) Whenever any person shall fail, refuse or neglect to pay any tangible personal property or machinery and tools taxes levied under Section 26-459 on or before June 5 of the tax year, there shall be added a penalty of ten percent of the taxes due or $10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax. Any tax remaining unpaid, in whole or in part, 60 days after the due date of each year shall incur an additional penalty of five percent of the tax due and unpaid.

(c) If any person shall fail, refuse or neglect to remit to the Collector any admissions, lodging, meals or short-term rental taxes required to be collected and paid under Articles VIII through X and XVII of this chapter within the time and amount specified, there shall be added to such tax a penalty of ten percent or $10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax.

(Code 1993, § 27-91; Code 2004, § 98-166; Code 2015, § 26-430; Ord. No. 2007-299-261, § 1, 11-26-2007; Ord. No. 2013-35-39, § 1, 3-25-2013)

Sec. 26-431. Interest.

(a) Whenever any taxes due under Sections 26-458, 26-459 and 26-460 and Articles VIII through X and XVII of this chapter are not paid prior to the day following the day of the year or, for admissions, lodging, meals and short-term rental taxes, the day following the day of the month when such taxes became due and payable in the

year, month or quarter for which they are levied, such unpaid taxes shall be deemed to be delinquent.

(b) Interest on such unpaid taxes shall be charged annually at the rate of ten percent from the day following the due date of the year or month in which the taxes became due and payable, pursuant to Code of Virginia, § 58.1-3916, and shall be paid upon the principal and penalties of taxes remaining unpaid.

(Code 1993, § 27-92; Code 2004, § 98-167; Code 2015, § 26-431; Ord. No. 2007-299-261, § 1, 11-26-2007; Ord. No. 2011-5-4, § 1, 1-24-2011; Ord. No. 2016-265, § 1, 11-14-2016)

Sec. 26-432. Aiding and abetting incorrect return.

It shall be a Class 1 misdemeanor for any person with intent to defraud to aid, abet, counsel or induce another to file an incorrect return for any taxes imposed under Section 26-461 and Articles VII through X and XVII of this chapter or to furnish incorrect information to the City regarding such taxes.

(Code 1993, § 27-93; Code 2004, § 98-168; Code 2015, § 26-432)

Sec. 26-433. Omitted taxes.

(a) If the Director ascertains that any of the taxes levied on personal property or machinery and tools for the current tax year or any tax year of the three preceding tax years have not been assessed or have been assessed at less than was required by law for any one or more of such years, or if the Director ascertains that the taxes for any cause have not been realized, it shall be the duty of the Director to list and assess such property with taxes at the rate prescribed for that year.

(b) For those taxes assessed by the Director as provided in subsection (a) of this section, a penalty shall be assessed as provided in Section 26-430.

(c) Taxes assessed pursuant to this section shall also be assessed interest at the same rate as provided in Section 26-431. Such interest shall be computed on the total of the taxes and penalty from the day following the due date on which such taxes should have been paid.

(d) If the failure to file or to remit the tax, in the opinion of the Director, was not the fault of the taxpayer, there shall be no penalty or interest for 30 days from the date of the omitted assessment. At the conclusion of the 30-day period, if no payment has been remitted, then interest and penalty shall be added to the amount of the deficiency at the rates prescribed in this section.

(Code 1993, § 27-94; Code 2004, § 98-169; Code 2015, § 26-433)

State law reference—Authorization for omitted taxes, penalty and interest on such, and no-fault provisions, Code of Virginia, § 58.1-3903.

Sec. 26-434. Failure to file and false statements.

(a) Except as specifically provided elsewhere in this chapter, it shall be unlawful to make a false statement with the intent to defraud on any return or willfully fail to file a return when due for any of the following taxes:

(1) Tangible personal property.

(2) Machinery and tools.

(3) Admissions.

(4) Lodging.

(5) Meals.

(6) Short-term rental.

(b) Any person, upon conviction of a violation of this section, shall be punished as provided by general law for:

(1) A Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is $1,000.00 or less; or

(2) A Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than $1,000.00.

(Code 1993, § 27-95; Code 2004, § 98-170; Code 2015, § 26-434)

Sec. 26-435. Statutory assessments for admissions, lodging and meals taxes.

(a) If any person shall fail or refuse to collect the taxes imposed by Articles VII through X and XVII of this chapter and to make within the times provided the required reports and remittances to the Collector, the Director shall proceed in such manner as deemed best to obtain the facts and information on which to base an estimate of the taxes due. Any person who neglects, fails or refuses to collect such taxes imposed by such articles upon every taxable sale made by such person or such person's agents or employees shall be liable for and shall pay the tax.

(b) The Director, upon procuring such facts and information upon which to base an assessment of any tax payable by any person who shall fail or refuse to collect such tax and to make such required reports and remittances shall proceed to determine and assess against such person such tax, plus penalty and interest as provided in Sections 26-430 and 26-431.

(c) The Director shall notify any person subject to assessments made pursuant to this section by mail sent to the last known place of address of the following:

(1) The amount of such tax;

(2) Penalty and interest;

(3) Total amount due; and

(4) That the total amount due shall be payable within ten days from the date of such notice.

(d) The Director shall have the power to examine such records for the purpose of administering and enforcing this section and all the provisions of Section 4.16 of the Charter.

(Code 1993, § 27-96; Code 2004, § 98-171; Code 2015, § 26-435)

Sec. 26-436. Recordkeeping.

It shall be the duty of every person liable for the collection and remittance to the City of any tax imposed by Articles VII through X and XVII of this chapter to keep and preserve for a period of five years such suitable records as may be necessary to determine the amount of such tax as they may have been responsible for collecting and paying to the City. The Director may inspect such records at all reasonable times.

(Code 1993, § 27-97; Code 2004, § 98-172; Code 2015, § 26-436)

Sec. 26-437. Distraint of property for taxes.

(a) Whenever any taxpayer shall fail, refuse or neglect to pay any real property, tangible personal property, admissions, lodging, meals or business, profession, or occupation license taxes levied within 30 days after the date that such taxes are due, the Director of Finance may cause any goods, chattels, money or bank notes in the City belonging to such taxpayer to be distrained. Any highway vehicle, as defined in Code of Virginia, § 58.1-2201, that is the subject of distress may be towed or immobilized with a wheel boot, wheel lock or other similar device.

(b) Property subject to levy or distress for taxes shall be liable to levy or distress in the hands of any person for taxes thereon, except that any highway vehicle, as defined in Code of Virginia, § 58.1-2201, purchased by a bona fide purchaser for value shall not be liable to levy or distress for such taxes unless the purchaser knew at the time of purchase that the taxes had been specifically assessed against such vehicle. Property on which taxes are not specifically assessed shall not be subject to distress after it passes into the hands of a bona fide purchaser for value.

(Code 1993, § 27-98; Code 2004, § 98-173; Code 2015, § 26-437; Ord. No. 2018-270, § 1, 11-13-2018)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3919, 58.1-3941.

Secs. 26-438—26-457. Reserved.

DIVISION 6. TANGIBLE PERSONAL PROPERTY AND MACHINERY AND TOOLS*

***State law reference—**Taxation of tangible personal property and machinery and tools, Code of Virginia, § 58.1-3500 et seq.

Sec. 26-458. Amount and levy on tangible personal property; property excluded from levy.

(a) Except as otherwise provided in this section, there shall be levied and collected for each year on all

tangible personal property, including, but not limited to, boats or watercraft under five tons' burden used for business or pleasure and vehicles without motive power used or designed to be used as offices, or any purpose other than continuous year-round occupancy as a dwelling, a tax of $3.70 on each $100.00 of assessed valuation thereof for general purposes.

(b) A manufactured home, as defined in Code of Virginia, § 36-85.3, shall, in accordance with Code of Virginia, § 58.1-3522, be taxed at the rate of levy imposed upon real estate pursuant to Section 26-355. Such taxes shall be due and payable as provided in Section 26-361 with penalty and interest for nonpayment computed pursuant to Section 26-361.

(c) Tangible personal property taxed under this section shall not include the following property:

(1) Bicycles;

(2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds;

(3) Pianos, organs, phonographs and record players and records to be used therewith and all other musical instruments of whatever kind, radio and television instruments and equipment;

(4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art;

(5) Diamonds, cameos and other precious stones and all precious metals used as ornaments or jewelry;

(6) Sporting and photographic equipment;

(7) Clothing and objects of apparel;

(8) All other tangible property owned and used by an individual or a family or household incident to maintaining an abode; and

(9) One motor vehicle:

a. Owned by each City resident who is an active member or auxiliary member of a volunteer rescue squad authorized by permit to operate in the City; or

b. Leased by each City resident who is:

1. An active member or an auxiliary member of a volunteer rescue squad authorized by permit to operate in the City; and

2. Obligated by the terms of the lease to pay tangible personal property taxes on the vehicle.

However, if a volunteer rescue squad member and an auxiliary member are members of the same household, that household shall be allowed only one vehicle subject to this section, as provided by Code of Virginia, § 58.1-3506.

(d) For the purpose of the levy and collection of tangible personal property taxes under this section, all other tangible property owned and used by an individual or a family or a household incident to maintaining an abode, as provided in subsection (c) of this section, shall include antique motor vehicles which may not be used for general transportation purposes as provided in Code of Virginia, § 58.1-3504.

(e) Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses and programmable computer equipment used in business shall be valued by means of a percentage of original cost to the taxpayer as may reasonably be expected to determine the actual fair market value.

(f) The following assessment ratios shall be applied to the original cost to the taxpayer of computer equipment, as provided in subsection (e) of this section, so as to reasonably determine the fair market value of the property. The Director of Finance is hereby authorized and directed to require each person who owned any property as defined in subsection (d) of this section to make a return under oath of the original cost price and year of acquisition to be used as a basis for assessment and determination of the fair market value of such property, using the following assessment ratios:

Year Acquired	*Assessment Ratio (%)*
1	70
2	60
3	30
4	15
5	10
6 and prior years	5

(g) The following assessment ratios shall be applied to the original cost to the taxpayer of all tangible property employed in a trade or business, as provided in Code of Virginia, § 58.1-3503(A)(18), and motor vehicles with a gross vehicle weight of 10,000 pounds or more and not listed in a recognized pricing guide and excluding programmable computer equipment and peripherals provided in subsection (e) of this section. The Director of Finance is hereby authorized and directed to require each person who owned tangible personal property employed in a trade or business to make a return under oath of the original cost and year of acquisition to be used as a basis for assessment and determination of the fair market value of such property, using the following assessment ratios:

Year Acquired	*Assessment Ratio (%)*
1	70
2	60
3	50
4	40
5	30
6 and prior years	20

The original cost of motor vehicles with a gross vehicle weight of 10,000 pounds or more shall be determined based on information maintained and made available to the City by the State Division of Motor Vehicles. The Director of Finance is hereby authorized and directed to obtain other such information as may be necessary and appropriate to determine the cost of the vehicle to the taxpayer if the information from the division of motor vehicles is incomplete or otherwise deemed to be inaccurate.

(h) The fair market value of motor vehicles for new model years not indicated in a recognized pricing guide used to value other such motor vehicles shall be determined by applying an assessment ratio of 90 percent to the original cost to the taxpayer of the vehicle as indicated in records maintained and made available to the City by the State Division of Motor Vehicles. The Director of Finance is hereby authorized and directed to obtain other such information as may be necessary and appropriate to determine the original cost of the vehicle to the taxpayer if the information from the Division of Motor Vehicles is incomplete or otherwise deemed to be inaccurate.

(Code 1993, § 27-101; Code 2004, § 98-196; Code 2015, § 26-458)

Sec. 26-459. Due date of taxes for tangible personal property, machinery and tools and personal property assessed by State Corporation Commission.

(a) Taxes levied on tangible personal property, machinery and tools and personal property assessed for taxation by the State Corporation Commission shall be due and payable on the first day of the tax year for which

they are levied.

(b) Every person assessed tangible personal property and machinery and tools taxes shall, when filing a return with the Director as required by Section 26-461, pay to the Collector the full amount of the tax payable as indicated on the face of the return. For every person filing a business tangible personal property or machinery and tools tax return, the face of the return must also include the amount of any property acquired or disposed of in the calendar year preceding the tax year for which the return is being filed.

(c) If any payment is not made in full when due, there shall be added to the entire tax or to any unpaid balance of the tax, whichever is applicable, a penalty, as prescribed in Section 26-430. The entire tax or unpaid balance, together with such penalty, shall immediately become collectible.

(d) For property taxes on tangible personal property assessed by the State Corporation Commission, the following shall apply:

(1) Credit on account of such taxes will be allowed during the year for which they are levied by payment on or before June 5 of that year of the amount of taxes paid or levied for the preceding tax year.

(2) The taxes due and payable shall be computed when the assessment of such property by the State Corporation Commission has been certified to the Collector.

(3) If the payment made on account of the taxes exceeds the amount of the taxes so computed, the excess shall be refunded to the taxpayer.

(4) If the amount of the taxes so computed exceeds the payment made on account of the taxes, the taxpayer may pay the deficit within 30 days of having been given notice of such deficit without penalty. A penalty of ten percent of the amount of the deficit shall be added to the balance due if the deficit is not paid within such 30 days.

(e) Whenever any such taxpayer shall fail, refuse or neglect to pay the amount of taxes paid or levied for the preceding tax year on or before June 5 of that year, there shall be added to the amount of taxes for the current year, when computed, a penalty as prescribed in Section 26-430 and interest as provided in Section 26-431.

(f) Motor vehicles or trailers, which acquire taxable situs in the City after the first day of the tax year, shall be taxed on a prorated basis as follows:

(1) Taxes shall be prorated on a monthly basis for that portion of the tax year for which the property has a situs within the City. A full month is counted for those periods of time which are equal to or greater than one-half of the month in which the property acquires taxable situs in the City. A period of time which is less than one-half of such month is not counted.

(2) Taxes shall be due within 60 days of the property achieving situs in the City or June 5 of the tax year, whichever is later.

(3) When any person, after the tax day or situs day, acquires a motor vehicle or trailer with a situs in the City, the tax shall be assessed on the property for the portion of the tax year during which the new owner owns the property and it has a situs in the City.

(4) Where any motor vehicle or trailer acquires taxable situs elsewhere, is sold or title otherwise legally transferred, a relief of the appropriate amount of tax already paid will be prorated on the same basis as provided in subsection (f)(1) of this section. At the option of the taxpayer, such amounts shall be refunded or credited against any other tax due within 30 days of the day such tax is relieved. No refund of less than $5.00 shall be issued to a taxpayer, unless specifically requested by the taxpayer.

(5) All property for which the property taxes are subject to proration shall be exempt from the levy of this tax for any portion of a tax year during which the property has been legally assessed by another jurisdiction in the Commonwealth and that tax paid.

(6) The lessor shall provide to every taxpayer who leases any motor vehicle pursuant to a contract that requires the lessee to pay the taxes thereon as provided under this article a written notice in bold print regarding the taxes to be paid by the lessee, and the lessor shall forward any such tax bill issued to the lessor a copy or facsimile of such bill to the lessee within ten business days of receipt.

(Code 1993, § 27-102; Code 2004, § 98-197; Code 2015, § 26-459; Ord. No. 2013-35-39, § 1, 3-25-2013)

Sec. 26-460. Levy on machinery and tools used in business and certain motor carrier transportation property.

(a) There shall be levied and collected for each year on all machinery and tools, as defined in Section 26-1, and motor vehicles owned or used by a motor carrier, as defined in Code of Virginia, § 46.2-2000, and motor carrier transportation property as defined in 49 USC 11503a(a)(3), exclusive of rolling stock of a certificated motor vehicle carrier subject to taxation pursuant to Code of Virginia, § 58.1-2652 et seq., trailers and semitrailers with a gross vehicle weight (rating) of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce, a tax of $2.30 on each $100.00 of assessed valuation thereof for general purposes.

(b) In assessing the value of such machinery and tools, the Director of Finance is hereby authorized and directed to require each person who owned any taxable machinery or tools on the first day of the tax year to make a return under oath of the original cost price, the year purchased and the book value of such machinery and tools, to be used as a basis of assessment, which shall be at the fair market value, as determined by means of applying the following assessment ratio schedule, of such machinery and tools. However, if the Director of Finance has reason to believe that any return made on machinery and tools by any person is inadequate, the Director of Finance shall be authorized to examine or cause to be examined any and all books and records of the person making such return and may also require the attendance at the Director's Office of the person making such return and examine such person under oath concerning the return:

Year Acquired	*Assessment Ratio (%)*
1	90
2	80
3	70
4	60
5	50
6 and prior years	40
Salvage	10

(c) Motor vehicles owned or used by a motor carrier, motor carrier transportation property as defined in 49 USC 11503a(a)(3), and trailers and semitrailers with a gross vehicle weight (rating) of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce, as provided in subsection (a) of this section, shall be assessed in accordance with Code of Virginia, § 58.1-3503(A)(3). The assessment ratio schedule provided in Section 26-458(f) shall be used as a basis for assessment and determination of the fair market value of such vehicles which are not listed in a recognized pricing guide.

(Code 1993, § 27-103; Code 2004, § 98-198; Code 2015, § 26-460)

Sec. 26-461. Duty of taxpayer to file; date of filing.

(a) Every person assessable with City taxes on tangible personal property or machinery and tools shall list such property on the forms provided by the Director of Finance and return the list to the Director on or before March 1 of each year in which such property is assessable for taxation by the City or, for motor vehicles and trailers, within 60 days of achieving taxable situs in the City, whichever is later.

(b) Any person liable for tax in the City of Richmond who fails to file a return of tangible personal property or machinery and tools tax on or before March 1 of each year shall incur a penalty of ten percent of the tax assessed or $10.00, whichever is greater; provided, however, that the penalty shall not exceed the amount of the tax assessable for that year. This penalty shall become part of the tax due for that year and shall be in addition to all other penalties and interest incurred for late payment of taxes or for filing a false return.

(Code 1993, § 27-104; Code 2004, § 98-199; Code 2015, § 26-461; Ord. No. 2007-299-261, § 1, 11-26-2007)

Sec. 26-462. Form of assessment books.

The Director of Finance shall, with the approval of the State Department of Taxation, prescribe the form of the personal property book and the machinery and tools book to be used by the Director.

(Code 1993, § 27-105; Code 2004, § 98-200; Code 2015, § 26-462)

Sec. 26-463. Retention of original assessment books; delivery of copy to Tax Collector.

The Director of Finance shall retain the original personal property and machinery and tools books prepared and shall deliver to the Collector one copy of each of such books before January 31 of the year following the year for which such taxes are levied.

(Code 1993, § 27-106; Code 2004, § 98-201; Code 2015, § 26-463)

Secs. 26-464—26-494. Reserved.

DIVISION 7. PERSONAL PROPERTY TAX RELIEF*

***State law reference—**Personal property tax relief, Code of Virginia, § 58.1-3523 et seq.

Sec. 26-495. Purpose; definitions; relation to other ordinances.

(a) *Purpose.* The purpose of this division is to provide for the implementation of the changes to the Code of Virginia, Title 58.1, Ch. 35.1 (Code of Virginia, § 58.1-3523 et seq.) made by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) *Definitions.* Terms utilized in this division that have defined meanings set forth in Code of Virginia, Title 58.1, Ch. 35.1 (Code of Virginia, § 58.1-3523 et seq.) shall have the same meanings as set forth in Code of Virginia, § 58.1-3523.

(c) *Relation to other ordinances.* To the extent that the provisions of this division conflict with any other provision of this Code or any other ordinance, this division shall control.

(Code 2004, § 98-211; Code 2015, § 26-495; Ord. No. 2005-302-258, § 1, 11-28-2005)

Cross reference—Definitions generally, § 1-2.

Sec. 26-496. Method of computing and reflecting tax relief.

(a) For tax years commencing in 2006, the City adopts the provisions of Item 503.E of Chapter 951 of the 2005 Acts of Assembly of Virginia, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for Code of Virginia, Title 58.1, Ch. 35.1 (Code of Virginia, § 58.1-3523 et seq.) and the reporting of such specific dollar relief on the tax bill.

(b) The City Council shall annually set the rate of tax relief at such a level that is anticipated fully to exhaust personal property tax relief funds provided to the City by the State. Any amount of personal property tax relief funds not utilized with the City's fiscal year shall be carried forward and utilized to increase the funds available for personal property tax relief in the following fiscal year.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(Code 2004, § 98-212; Code 2015, § 26-496; Ord. No. 2005-302-258, § 1, 11-28-2005)

Sec. 26-497. Allocation of relief among taxpayers.

(a) Allocation of personal property tax relief shall be provided in accordance with the general provisions of this section.

(b) Relief shall be allocated in such manner as to eliminate the personal property taxation of each qualifying vehicle with an assessed value of $1,000.00 or less.

(c) Relief may be allocated with respect to qualifying vehicles with an assessed value of greater than $1,000.00 but less than or equal to $20,000.00 at a rate that, in combination with the relief granted in subsections

(b) and (d) of this section, is estimated to fully utilize all available State personal property tax relief.

(d) Relief with respect to qualifying vehicles with assessed values greater than the value established by the City Council pursuant to subsection (c) of this section shall be provided at a rate fixed annually by the City Council and applied up to the first $20,000.00 of each qualifying vehicle. The rate shall be established annually at such a rate that, when combined with the relief granted pursuant to subsections (b) and (c) of this section, are estimated to fully utilize all available State personal property tax relief.

(Code 2004, § 98-213; Code 2015, § 26-497; Ord. No. 2005-302-258, § 1, 11-28-2005)

Secs. 26-498—26-517. Reserved.

DIVISION 8. POLLUTION CONTROL EQUIPMENT, FACILITIES AND PROPERTY

Sec. 26-518. Exemption from taxation.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Certified pollution control equipment, facilities and property means property, including real or personal property, equipment, facilities, or devices used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the State-certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a State-certifying authority. Such property shall also include solar energy equipment, facilities or devices owned or operated by a business that collects, generates, transfers, or stores thermal or electric energy, whether or not such property has been certified to the Department of Taxation by a State-certifying authority. For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to on-site sewage systems that serve ten or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds. All such property as described in this definition shall not include the land on which such equipment or facilities are located.

State-certifying authority means the State Water Control Board or the Virginia Department of Health for water pollution; the State Air Pollution Control Board for air pollution; the Department of Mines, Minerals and Energy for solar energy projects and for coal, oil and gas production, including gas, natural gas and coalbed methane gas; the Virginia Waste Management Board for waste disposal facilities, natural gas recovered from waste facilities and landfill gas production facilities; and includes any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

(b) Certified pollution control equipment, facilities and property are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classifications of real or personal property, and such property shall be exempt from local taxation. For solar photovoltaic or electric energy systems, the exemption provided for by this subsection shall apply only to (i) projects equaling 20 megawatts or less, as measured in alternating current generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018, (ii) projects equaling 20 megawatts or less, as measured in alternating current generation capacity, that serve any of the public institutions of higher education listed in the Code of Virginia, § 23.1-100 or private college as defined in Code of Virginia, § 23.1-105, (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization after January 1, 2015, and greater than 20 megawatts, as measured in alternating current generation capacity, for projects first in service on or after January 1, 2017, (iv) projects equaling five megawatts or less, as measured in alternating current generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019, and (v) 80 percent of the assessed value of all other

projects equaling more than five megawatts, as measured in alternating current generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019. The exemption for solar photovoltaic (electric energy) projects greater than 20 megawatts, as measured in alternating current generation capacity, shall not apply to projects upon which construction begins after January 1, 2024. Except as otherwise explicitly provided under Code of Virginia, Title 58.1, Ch. 36, Art. 5, as to any real or personal property, machinery, equipment, facilities, devices, or real estate improvements required to be certified by a state or local certifying authority for tax exemption under Code of Virginia, Title 58.1, Ch. 36, Art. 5, once the required certification is made, such property shall be deemed exempt as of the date the property is placed in service. Nothing in this section shall be interpreted or construed as extending any limitations period under law for applying for correction of an assessment or otherwise appealing an assessment.

(Code 1993, § 27-121; Code 2004, § 98-221; Code 2015, § 26-518; Ord. No. 2014-112-85, § 1, 5-27-2014; Ord. No. 2016-145, § 1, 5-23-2016; Ord. No. 2017-096, § 1, 5-22-2017; Ord. No. 2019-155, § 1, 6-24-2019)

State law reference—Authority for this section, Code of Virginia, § 58.1-3660.

Secs. 26-519—26-544. Reserved.

DIVISION 9. PROPERTY TAX EXEMPTION PROCESS

Sec. 26-545. Purpose.

The purpose of a property tax exemption policy by the City is to:

(1) Provide an orderly, systematic and organized process for the review of requests for exemption from real and personal property taxation;

(2) Enable the City Council to be fully informed as to the financial impact of granting property tax exemptions, both individually and collectively;

(3) Ensure that those organizations to whom such exemptions are granted are meeting a general public need for which the benefits derived by the community at large exceed the City's loss in revenue from taxes on the organization's real and tangible personal property; and

(4) Ensure that all requests for exemption are provided equitable consideration.

(Code 1993, § 27-125; Code 2004, § 98-246; Code 2015, § 26-545)

Sec. 26-546. Filing for exemption.

(a) A nonprofit organization that owns real or tangible personal property, either or both, and uses such property exclusively for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes may apply for exemption from property taxation. Any such organization shall apply to the City either for exemption by classification or for exemption by designation. Application forms for both types of exemption shall be made available in the City Assessor's Office. Property tax exemption by classification applications along with all required documentation shall be filed with the City Assessor's Office no later than July 1. Organizations must provide all information requested by the City Assessor's Office. If an organization is determined to be exempt by classification, tax exempt status shall become effective on January 1 of the following year; unless such property is exempt pursuant to Code of Virginia, § 58.1-3606(A)(1) or (A)(2), in which case the exemption is effective immediately. Each organization granted an exemption by classification shall file a triennial application with the City Assessor's Office no later than September 1 of every third year in order to retain its tax-exempt status.

(b) If an organization is determined not to be exempt by classification, then the City Assessor's Office shall notify that organization in writing of that determination and provide information regarding the exemption by designation process, including an application. Property tax exemption by designation applications along with all required documentation shall be filed with the City Assessor's Office no later than September 1.

(Code 1993, § 27-126; Code 2004, § 98-247; Code 2015, § 26-546; Ord. No. 2004-369-332, § 1, 12-13-2004)

Sec. 26-547. Exemption by designation.

If an organization is not exempt from property taxes by classification, it may apply for exemption by

designation, as indicated above, pursuant to Code of Virginia, § 58.1-3651. The process for review and consideration of these applications shall be as follows:

(1) After receipt thereof, the City Assessor's Office shall promptly forward such application to the City Attorney's Office for review to determine whether the application is complete. After the City Attorney's Office has completed its review for completeness, it shall forward the application to the Property Tax Exemption by Designation Committee no later than December 1 of that year. The Property Tax Exemption by Designation Committee shall consist of at least five members who shall each serve a three-year term and who shall be familiar with one or more of the following areas:

a. Nonprofit organizations;

b. Accounting;

c. Finance; and

d. Property assessments.

At least one member of the Property Tax Exemption by Designation Committee shall be an employee of either the City Assessor's Office or the Department of Finance; however, such employees shall comprise of no more than two-fifths of the members of the Property Tax Exemption by Designation Committee. The City Assessor and the Director of Finance shall jointly appoint each member of the Property Tax Exemption by Designation Committee and shall jointly furnish the Property Tax Exemption by Designation Committee with administrative support. The Property Tax Exemption by Designation Committee shall adopt such rules as it may find necessary to carry out its role in the process for review and consideration of applications for exemption by designation from property taxation. The Property Tax Exemption by Designation Committee shall review each application for exemption by designation and provide a written report to the City Council on each application no later than February 1 of the following year.

(2) After the Property Tax Exemption by Designation Committee makes its recommendation to the City Council as to whether the Council should approve or deny the application, an ordinance approving the exemption shall be introduced and scheduled for a public hearing before and a vote by the City Council by no later than March 15. As required by Code of Virginia, § 58.1-3651(B), notice of the public hearing on the ordinance shall include the assessed value of the real and tangible personal property and the assessed property taxes against this property and shall be published in a paper of general circulation in the City at least five days before the public hearing. The organization being considered shall pay the City for the costs of the publication.

(3) All ordinances approving property tax exemption by designation applications shall clearly state for what purpose the property in question is being used. If the City Council adopts the ordinance to approve the exemption by designation for the organization, the City Clerk shall forward a copy of the ordinance to the City Assessor's Office, which shall appropriately mark the real property on the tax rolls and shall, if the ordinance pertains to tangible personal property tax exemptions, forward a copy of the ordinance to the Department of Finance so that it can appropriately mark the tangible personal property on the tax rolls. The City Assessor's Office shall send a written notice to each organization informing them whether the City Council adopted an ordinance approving the tax exemption for which it applied.

(4) Any organization granted exemption by designation will be required to submit a triennial application to the City Assessor's Office by September 1 of every third year to determine if retention of the exempt status of real and personal property would be appropriate. The Property Tax Exemption by Designation Committee shall review all such triennial applications and shall make written recommendations to the City Assessor regarding the retention of the exempt status no later than February 1 of the following year.

(Code 1993, § 27-128; Code 2004, § 98-248; Code 2015, § 26-547; Ord. No. 2004-369-332, § 1, 12-13-2004)

Sec. 26-548. Criteria for consideration of exemption.

No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin. In determining whether to grant any request for property tax exemption, the following criteria shall be considered:

(1) The organization's written responses to the questions set forth in Code of Virginia, § 58.1-3651(B).

(2) The organization's written responses to the following questions:

a. Whether the organization is current on all obligations to the City;

b. Whether the organization is in compliance with all City regulations, including, but not limited to, building and zoning codes;

c. Whether the organization is qualified to receive a contribution from the City under State statutes; and

d. Whether the service provided by the organization is consistent with the City's mission; whether it is one that the City would provide if the requesting organization did not do so; and whether it meets an established priority of the City.

(3) Any pertinent financial records or documentation requested by the City Assessor's Office, including, but not limited to, the letter from the Internal Revenue Service granting 501(c) status to the organization and, for the current year and two years prior, the following:

a. The IRS Form 990 or 990EZ;

b. Any financial audits of the organization; and

c. Any annual financial statements listing assets/liabilities and net assets of the organization.

(4) A description of all property, both real and personal, relevant to the application with a certification as to its exclusive use by the organization for the purpose for which the organization seeks exemption.

(Code 1993, § 27-128; Code 2004, § 98-249; Code 2015, § 26-548; Ord. No. 2004-369-332, § 1, 12-13-2004)

Sec. 26-549. Moratorium on acceptance of applications for tax exemptions.

On the date upon which the ordinance from which this section is derived takes effect, the City Assessor shall not accept any application filed by nonprofit organizations seeking exemption from taxation for real or tangible personal property pursuant to the provisions of Sections 26-546 through 26-548. This moratorium shall be in effect until repealed by the Council. Notwithstanding any other provision of law to the contrary, during the moratorium provided for in this section, (i) any organization granted an exemption by designation shall submit a triennial application to the City Assessor's Office by September 1 of every third year to determine if retention of the exempt status of real and personal property would be appropriate and (ii) the City Assessor shall review all such triennial applications received and determine if retention of the exempt status is appropriate, provided that the City Assessor and the Director of Finance may jointly appoint the Property Tax Exemption by Designation Committee pursuant to Section 26-547 to review such triennial applications and make recommendations to the City Assessor regarding retention of the exempt status if both the City Assessor and the Director of Finance deem such appointment necessary.

(Code 2004, § 98-249.1; Code 2015, § 26-549; Ord. No. 2012-188-2013-3, § 1, 1-28-2013; Ord. No. 2013-19-17, § 1, 2-11-2013; Ord. No. 2017-035, § 1, 3-27-2017)

Sec. 26-550. Property exempt from taxation by classification.

(a) Pursuant to the authority granted in Article X, Section 6(a)(6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

(1) Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.

(2) Real property and personal property owned by churches or religious bodies and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such property. Real property exclusively used for religious worship shall also include property:

a. Used for outdoor worship activities;

b. Used for ancillary and accessory purposes as allowed under Chapter 30, the dominant purpose of

which is to support or augment the principal religious worship use; and

c. Used as required by Federal, State or local law.

(3) Nonprofit private or public burying grounds or cemeteries.

(4) Property owned by public libraries, law libraries of local bar associations when the same are used or available for use by a State court or courts or the judge or judges thereof, medical libraries of local medical associations when the same are used or available for use by State health officials, incorporated colleges or other institutions of learning not conducted for profit. This subsection shall apply only to property primarily used for literary, scientific or educational purposes or purposes incidental thereto and shall not apply to industrial schools which sell their products to other than their own employees or students.

(5) Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment).

(6) Parks or playgrounds held by trustees for the perpetual use of the general public.

(7) Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes.

(8) Property of any nonprofit corporation organized to establish and maintain a museum.

(b) The real and personal property of an organization classified in Code of Virginia, §§ 58.1-3610 through 58.1-3622 and used by such organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purpose as set forth in Article X, Section 6(a)(6) of the Constitution of Virginia, the particular purpose for which such organization is classified being specifically set forth within each section, shall be exempt from taxation, so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.

(c) Property, belonging in one of the classes listed in subsection (a) or (b) of this section, which was exempt from taxation on December 31, 2002, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property at the time such property became entitled to exemption.

(d) Exemptions of property from taxation granted under this section on or after January 1, 2003, shall be strictly construed in accordance with Article X, Section 6(f) of the Constitution of Virginia.

(Code 2004, § 98-250; Code 2015, § 26-550; Ord. No. 2004-337-307, § 1, 11-22-2004; Ord. No. 2014-113-86, § 1, 5-27-2014)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3606, 58.1-3650.

Secs. 26-551—26-578. Reserved.

DIVISION 10. PARTIAL TAX EXEMPTION IN REDEVELOPMENT AND CONSERVATION AREAS AND REHABILITATION DISTRICTS*

***State law reference—**Partial tax exemption in redevelopment or conservation areas or rehabilitation districts, Code of Virginia, § 58.1-3219.4.

Sec. 26-579. Purpose.

The purpose of this division is to reduce or eliminate concentrations of blight, stimulate investment and encourage new construction and improvement of real property in redevelopment and conservation areas and rehabilitation districts.

(Code 2004, § 98-260; Code 2015, § 26-579; Ord. No. 2009-226-222, § 1, 12-14-2009)

Sec. 26-580. Generally; expiration of exemption program; evaluation of exemption program; fiscal impact

statement.

(a) The City Assessor shall, upon application made and within the limits as hereinafter provided, order the partial exemption from real property tax of real property upon which new structures or other improvements have been constructed within a redevelopment or conservation area or rehabilitation district established in the City.

(b) The partial tax exemption program herein created shall be reevaluated annually by the City Assessor, the Chief Administrative Officer and the Director of Finance in accordance with subsection (d) of this section and they shall make a recommendation to the City Council as to whether or not the partial tax exemption program established by this division should continue in effect. The City Assessor, the Chief Administrative Officer and the Director of Finance shall present the program evaluation results and recommendations to the City Council concerning the continuation or termination of the program by February 15 of each year that the program established by this division is in effect.

(c) The evaluation criteria shall include, but not necessarily be limited to:

(1) The number of applications submitted;

(2) The number of applications approved for consideration by the City Assessor;

(3) The number, type and description of properties qualifying for partial tax exemption under this division;

(4) The total dollar amount of the resulting assessment credit ordered;

(5) The revenue impact on the City both with and without the existence of the program; and

(6) Any other quantifiable data that can be used to measure the overall effect of the program.

(d) The City Assessor and the Director of Finance, by February 15 of each year that the program established by this division is in effect, shall provide the City Council and the Chief Administrative Officer with a fiscal impact statement of the program's operation.

(Code 2004, § 98-261; Code 2015, § 26-580; Ord. No. 2009-226-222, § 1, 12-14-2009; Ord. No. 2015-27-43, § 1, 2-23-2015)

Sec. 26-581. Rules and regulations for administration of division.

The City Assessor, with the advice and comment of the Chief Administrative Officer and the Director of Finance, shall promulgate such rules and regulations not inconsistent with the provisions of this division as the City Assessor deems necessary for the effective administration of this division.

(Code 2004, § 98-262; Code 2015, § 26-581; Ord. No. 2009-226-222, § 1, 12-14-2009)

Sec. 26-582. Eligibility of residential real property; annual renewal application.

(a) In order to qualify for the partial exemption from real property taxation for real property constructed for residential use, throughout the exemption period established by Section 26-584(a), (1) the new structure must be (i) an owner occupied dwelling used as a single-family residential structure, (ii) rental property used as a single-family dwelling with a fully executed lease agreement containing a rent to buy option, (iii) a structure used as commercial space only on the street level and residential space, a minimum of 30 percent of which provides housing restricted to individuals or families making up to 60 percent of the area median income for the Richmond-Petersburg Metropolitan Statistical Area with a maximum rent, calculated annually, no greater than 30 percent of the income of any such individual or family, on the upper remaining levels or (iv) a multifamily dwelling, a minimum of 30 percent of which provides housing restricted to individuals or families making up to 60 percent of the area median income for the Richmond-Petersburg Metropolitan Statistical Area with a maximum rent, calculated annually, no greater than 30 percent of the income of any such individual or family; and (2) the other improvement, if any, must be designed for the accessory use of such new structure; improvements such as garages, swimming pools, patios and similar facilities that are not used as living areas for the structure shall not be eligible for this exemption. Any portion of the structure that is commercial space, including, but not limited to, the commercial space identified in numeral (iii) above, shall not be eligible for the exemption. Any residential space identified in numeral (iii) above or multifamily dwelling identified in numeral (iv) above that does not meet the minimum percentage set forth in numerals (iii) or (iv) above, that exceeds the maximum rent set forth in numerals (iii) or (iv) above or that does not have the dwelling units in such residential space or the dwelling units in such multifamily dwelling interspersed among dwelling units offered for rent to individuals or families making more than 60 percent of the area median

income for the Richmond-Petersburg Metropolitan Statistical Area shall not be eligible for this exemption. In addition, the new structure and other improvement, if any, must be built on a lot on which no building, as determined by the Department of Planning and Development Review, has been situated for at least two years prior to the date upon which an application for the partial tax exemption established by this division is filed. However, a new structure or other improvement built on a lot on which no building, as determined by the Department of Planning and Development Review, is situated as a result of the demolition of a structure or other improvement at the expense of the City shall be exempted from the requirement that such lot not have a building, as determined by the Department of Planning and Development Review, situated upon it for at least two years prior to the date upon which an application for the partial tax exemption established by this division is filed.

(b) In order for the partial exemption for a property to continue in effect, such property shall be maintained in compliance with the provisions of the Virginia Uniform Statewide Building Code. If, after receiving notice of a violation of this section, the owner of the property fails or refuses to complete the necessary corrections within the time required for such action, or refuses City inspectors or City appraisers access to such property for the purpose of determining continued eligibility under this section, then such eligibility shall terminate.

(c) The new structure and other improvements, if any, must be completed within two years after the date the building permit applied for in accordance with this division has been issued.

(d) The new structure and other improvements, if any, must be in conformity with the general character and quality of the existing structures in the surrounding community, as determined by the City Assessor.

(e) In order for a partial exemption granted for a rental property used as a single-family dwelling with a fully executed lease agreement containing a rent to buy option to remain in effect, the property must be purchased within the first three years of the exemption by an individual who will occupy the property. If a rental property used as a single-family dwelling with a fully executed lease agreement containing a rent to buy option is not purchased within the first three years of the exemption by an individual who will occupy the property, the partial exemption for the property will terminate after the third year. It shall be the responsibility of the purchaser to provide proof of the closing date and the purchaser's ownership to the City Assessor so that the Assessor can note the continuation of the partial exemption on the land book. Absent any evidence submitted by a purchaser showing that a rental property used as a single-family dwelling with a fully executed lease agreement containing a rent to buy option has been purchased within the first three years of the exemption by an individual that will occupy the property, the City Assessor shall remove the partial exemption from the land book after the third year.

(f) In order to retain the partial exemption for which this division provides, each owner of real property which has qualified for partial exemption of real estate taxes under this division shall file a renewal application with the City Assessor on forms to be prescribed by the City Assessor, and any other documentation as may be required by the City Assessor, by no later than January 1 of each year of the exemption period until such partial exemption expires or is otherwise terminated for failure to comply with the requirements of this division or other applicable law. The partial exemption for which this division provides shall terminate if any owner of real property fails to comply with the requirements of this subsection. In the case of any such termination of the partial exemption for which this division provides, the partial exemption for the tax year in which the date upon which the renewal application is due falls and for all subsequent tax years remaining in the exemption period for such real property shall be forfeited and the credit for the tax year in which the date upon which the renewal application is due falls and for all subsequent tax years remaining in the exemption period shall be canceled and shall be of no effect.

(Code 2004, § 98-263; Code 2015, § 26-582; Ord. No. 2009-226-222, § 1, 12-14-2009; Ord. No. 2014-15-24, § 1, 2-24-2014; Ord. No. 2015-233, § 1, 2-8-2016; Ord. No. 2019-198, § 1, 9-23-2019)

Sec. 26-583. Application.

(a) There shall be no order of partial exemption from real property tax under this division for real property (i) whose owner or such owner's agent has not submitted an application to the City Assessor for partial tax exemption in accordance with this division prior to construction, (ii) whose owner has failed to pay any amount of nonexempt real estate taxes, (iii) that is not within a redevelopment or conservation area or rehabilitation district established in the City, (iv) whose owner has failed to submit design plans to the City Assessor or (v) that is receiving any other real estate tax exemption authorized by this Code.

(b) As a prerequisite for qualifying for partial tax exemption under this division, the owner or agent of the

owner of such property shall file an application for partial exemption of real property from taxation with the City Assessor simultaneously with making application for a building permit and prior to any work being started on the subject property. Each application for such exemption shall be accompanied by a processing fee in the amount of $125.00. No property shall be eligible for such exemption unless all appropriate building permits have been acquired and the City Assessor has verified that the new structure or other improvements indicated on the application has been completed and a certificate of occupancy has been issued. Furthermore, no property shall be eligible for such exemption if the City Assessor has been denied access to the entire premises before, during or after the work for which a partial exemption has been applied, for purposes of determining whether the new structure or other improvements have been completed and for appraising the property.

(c) The applicant shall bear the burden of proof to show that the property for which a partial exemption has been applied complies with all requirements established by this division. The City Assessor may require documented proof of eligibility and compliance with the requirements of this division, and, in such cases, the applicant shall present documentation satisfactory to the City Assessor.

(Code 2004, § 98-264; Code 2015, § 26-583; Ord. No. 2009-226-222, § 1, 12-14-2009; Ord. No. 2015-233, § 1, 2-8-2016)

Sec. 26-584. Amount of exemption; basis for taxes during construction.

(a) The amount of the partial exemption from real property taxation provided for by this division shall be an amount equal to the increase in assessed value resulting from the completed construction of the new structure or other improvement to the real property as determined by the City Assessor. This amount only, on a fixed basis, shall constitute the exemption, notwithstanding subsequent market appreciation or depreciation, assessment, reassessment or future improvements. In no event shall the exemption exceed the increase in assessed value resulting from the construction of the new structure or other improvement to the real estate as determined by the City Assessor. The exemption shall commence on January 1 of the year following completion of the new construction or improvements and shall run with the real estate for ten years.

(b) No partial exemption under this division shall be ordered during the construction phase of the new structure or other improvements. Prior to completion of the new structure or other improvements, taxes shall be based upon the full assessed value of the property when assessed.

(Code 2004, § 98-265; Code 2015, § 26-584; Ord. No. 2009-226-222, § 1, 12-14-2009; Ord. No. 2015-233, § 1, 2-8-2016)

Sec. 26-585. Penalty for nonpayment of real estate taxes; forfeiture of exemption.

Whenever the owner of real property which has qualified for partial exemption of real estate taxes under this division fails to pay one-half of the nonexempted amount of real estate taxes on the property on or before January 14 of any tax year or the remaining one-half of such amount on or before June 14 of any tax year:

(1) A penalty of ten percent shall be applied to any such installment due on the taxes for the full assessed value of the property for that tax year;

(2) The partial exemption claimed for that tax year shall be forfeited; and

(3) The annual credit issued for that tax year shall be canceled and shall be of no effect.

The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at ten percent per annum on the nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30 of the tax year in question if June 30 falls on a weekend.

(Code 2004, § 98-266; Code 2015, § 26-585; Ord. No. 2009-226-222, § 1, 12-14-2009; Ord. No. 2010-92-105, § 3, 5-24-2010)

Sec. 26-586. Land book.

Nothing in this division shall be construed so as to permit the City Assessor to list upon the land book any reduced value due to the exemption provided by this division.

(Code 2004, § 98-267; Code 2015, § 26-586; Ord. No. 2009-226-222, § 1, 12-14-2009)

Sec. 26-587. Demolition.

The exemption provided in this division shall not apply when the structure to be demolished is a Virginia

registered landmark or is determined by the Virginia Department of Historic Resources to contribute to the significance of a registered historic district.

(Code 2004, § 98-268; Code 2015, § 26-587; Ord. No. 2009-226-222, § 1, 12-14-2009)

Sec. 26-588. False statements.

The making of any false statement in any application, affidavit or other information supplied for the purpose of eligibility determination under this division shall constitute a Class 2 misdemeanor.

(Code 2004, § 98-269; Code 2015, § 26-588; Ord. No. 2009-226-222, § 1, 12-14-2009)

Sec. 26-589. Additional application for exemption authorized.

Notwithstanding any provision of this division to the contrary, during the effective period of the partial exemption for which this division provides, no more than one additional application to qualify for partial exemption from real estate taxation for property constructed for residential use may be accepted for the same property, provided that such additional application is for improvements to real estate located in a redevelopment or conservation area or rehabilitation district on which a new structure that has qualified for the partial tax exemption for which this division provides is situated. Upon any approval of a partial exemption based on any such additional application, the owner of the property shall be eligible for any remaining credit available on the existing partial exemption issued in accordance with this division and for an additional partial exemption for the improvements made to such property for the number of years and at the percentage of the exemption remaining on the existing partial exemption pursuant to Section 26-584 at the time of the approval of the additional application. The amount of the partial exemption from real property taxation provided for by this division based on any additional application shall be calculated in accordance with the requirements of this division. In addition, no such additional application shall be for a new structure, unless such improvement complies with Section 26-584 and is designed for the accessory use of a new structure that has previously qualified for a partial exemption in accordance with this division. Except as provided otherwise in this section, any partial exemption based on an additional application filed in accordance with this section shall be governed by and shall be subject to the provisions of this division.

(Code 2004, § 98-270; Code 2015, § 26-589; Ord. No. 2014-165-155, § 1, 9-8-2014)

Secs. 26-590—26-600. Reserved.

DIVISION 11. PARTIAL EXEMPTION OF CERTAIN REHABILITATED COMMERCIAL OR INDUSTRIAL STRUCTURES FROM REAL ESTATE TAXATION

Sec. 26-601. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition means an increase in the square footage of a qualified structure that expands the utility of such structure.

Base value means the assessed value of real estate for which an application has been filed in accordance with this division, as set forth in the land book on January 1 of the tax year in which such application is filed.

Commercial or industrial real estate means land containing a structure or other improvement constructed or used for nonresidential purposes in accordance with this Code and other applicable law or a mixed-use development.

Enterprise zone means a Council-designated enterprise zone established pursuant to the Enterprise Zone Act, Code of Virginia, § 59.1-279 et seq.

Linear feet means the shortest distance from one point to another, measured horizontally in feet, where one foot is equal to 12 inches.

Mixed-use development means a structure or other improvement constructed for both residential and commercial uses where at least ten percent of the total square footage of such structure or other improvement is comprised of commercial space.

Qualified structure means a structure or other improvement that has qualified for rehabilitation, renovation or replacement in accordance with this division.

Rehabilitation means the process of restoring a qualified structure through:

(1) Renovation;

(2) Replacement; or

(3) Renovation and the construction of an addition.

Renovation means the process of updating the utility of a qualified structure, in whole or in part, including, but not limited to, the partial destruction and rebuilding of such structure.

Replacement means the process of demolishing a qualified structure for which an application has been filed in accordance with this division and subsequently replacing such structure by constructing a new structure on the same real estate upon which the qualified structure was situated.

Square footage means the area of a structure or other improvement measured in square feet.

Substantially rehabilitated means rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 40 percent of the base value.

(Ord. No. 2020-148, § 1(26-590), 9-14-2020)

Sec. 26-602. Partial exemption provided for certain rehabilitated, renovated or replacement commercial or industrial structures, or other improvements.

In accordance with the criteria set out in Va. Const. Art. X, ¶ 6(h) and Code of Virginia, § 58.1-3221, partial exemption is hereby provided from taxation of real estate on which any qualified structure has undergone substantial rehabilitation for commercial or industrial use, subject to the conditions set forth in this division.

(Ord. No. 2020-148, § 1(26-591), 9-14-2020)

Sec. 26-603. Eligibility for partial exemption of rehabilitated commercial and industrial structures or other improvements.

In order to qualify for the partial exemption provided for in Section 26-605, qualified structures on commercial or industrial real estate shall meet the following requirements:

(1) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application. For purposes of determining the age of a structure or other improvement for which an application for partial tax exemption has been filed in accordance with this division, the earliest assessment date of the structure or other improvement in the records of the City Assessor shall be used to calculate the age of such structure or other improvement. For purposes of determining the total linear feet of the exterior walls of a structure or other improvement as such structure or other improvement existed 20 years before the date that an application for partial tax exemption has been filed in accordance with this division, the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application as reflected in the records of the City Assessor shall be used. In determining the total linear feet of the exterior walls of the structure or other improvement for purposes of this division, the City Assessor shall employ usual and customary methods of determining the linear feet of exterior walls of structures or other improvements.

(2) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division, but prior to the expiration date of such application as provided in Section 26-604. For commercial or industrial qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for commercial or industrial use, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 100 percent. Upon inspection of the qualified

structure to determine if it then qualifies for the partial exemption in accordance with Section 26-604, the City Assessor shall determine the square footage of any addition constructed in accordance with the requirements of this division. In determining the square footage of the addition, the City Assessor shall employ usual and customary methods of determining the square footage of real estate.

(Ord. No. 2020-148, § 1(26-592), 9-14-2020)

Sec. 26-604. Application for partial exemption of rehabilitated commercial or industrial structures, or other improvements.

In order to qualify for the partial exemption provided for in Section 26-605, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of commercial or industrial qualified structures shall, prior to commencement of rehabilitation and after making application for a building permit to rehabilitate such structure, file with the Director of Economic Development and a copy to the City Assessor, upon forms furnished by the Director of Economic Development, an application to qualify such structure or other improvement as a qualified structure rehabilitated for commercial or industrial use. Upon receipt of an application for tax exemption, the City Assessor shall provide written notification to the owner of such commercial or industrial qualified structure, or other improvement, of the base value of the qualified structure. Such notice shall also notify the property owner that such property owner may appeal the base value in accordance with the applicable provisions of this Code or State law, in which case the base value as subsequently determined by the City Assessor, the City of Richmond Board of Review of Real Estate Assessments, or a court of competent jurisdiction upon such appeal shall be the base value for purposes of this section. The application to qualify for tax exemption shall be effective until two years from the date on which the application is submitted. If by such expiration date rehabilitation has not progressed to such a point that the qualified structure has been substantially rehabilitated to retain such eligibility, a new application to qualify for tax exemption must be filed. Upon such filing, the City Assessor shall, in accordance with the notice requirements of this section, provide the property owner with notification of the base value of the property as set forth in the land book on January 1 of the tax year in which such new application is filed. The initial application to qualify for the partial exemption and any subsequent application must be accompanied by the payment of a processing fee of $250.00, which fee shall be applied to offset the cost of processing such application, making required assessments, and making an annual inspection to determine the progress of the work. During the period between the receipt of the application and the time at which the City Assessor ascertains that the structure has been substantially rehabilitated, the Director of Economic Development shall, at such time during the year as the Director of Economic Development may fix by regulation, make an annual inspection of progress of the rehabilitation undertaken, and the owner, including the possessor of leasehold interest as defined in Code of Virginia, § 58.1-3203, of the property shall be subject to taxation upon the full value of the improvements to the property. An owner, as provided in this section, may, at any time prior to the expiration date of the application and once rehabilitation of a qualified structure is complete, submit a written request to the City Assessor to inspect the structure to determine if it then qualifies for the partial exemption from real estate taxation for which Section 26-605 provides. When the City Assessor determines that the minimum required increase in the assessed value has occurred (i.e., the base value is exceeded by 40 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the partial exemption, no more than one additional application to qualify for partial exemption from real estate taxation for rehabilitated structures may be accepted for the same property. However, upon any approval of a partial exemption based on any such additional application for partial exemption, the owner of the commercial or industrial qualified structure shall waive all rights to and interest in any unexpired partial exemption existing at the time that an additional application to qualify for partial exemption from real estate taxation for rehabilitated structures for the same property is approved for partial exemption, and such unexpired partial exemption shall cease. If the owner of the commercial or industrial qualified structures fails or refuses to waive such rights or interest, the approval of the partial exemption based on the additional application for partial exemption shall be revoked, but the existing partial exemption shall continue in effect for the remainder of the applicable exemption period. In addition, no such application shall be for the:

(1) Renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age;

(2) Replacement of a qualified structure on which an existing partial exemption is based;

(3) Construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age; or

(4) Any combination of subsection (1), (2), or (3) of this section.

(Ord. No. 2020-148, § 1(26-593), 9-14-2020)

Sec. 26-605. Amount of exemption for rehabilitated commercial or industrial qualified structures.

Except as provided in Section 26-604 with regard to a property for which an additional application has been approved for partial exemption, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of property qualifying for partial exemption of real estate taxes because of rehabilitation of a commercial or industrial qualified structure in accordance with this division shall be issued a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the five-year period of partial exemption from real estate taxes and, in each year of a two-year period following the initial five years, a credit for the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property, at 66 percent in year six and 33 percent in year seven of the full amount of the partial exemption. Commercial or industrial qualified structures that are located within enterprise zones, are no less than 20 years old, and are otherwise qualified under this division shall be entitled to a seven-year period of exemption in the full amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the seven years and for the three-year period following the initial seven years, a credit for 75 percent in year eight, 50 percent in year nine and 25 percent in year ten of the full amount of the partial exemption. No exemption shall be issued during the effective period of an exemption for any rehabilitation on the same property for which an additional application has been filed for residential real estate in accordance with Section 26-604 that is achieved through the:

(1) Renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age;

(2) Replacement of a qualified structure on which an existing partial exemption is based;

(3) Construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age; or

(4) Any combination of subsection (1), (2), or (3) of this section.

An increase in assessment occurring after the first year of the partial exemption shall not qualify for an increase in such partial exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which such credit has been issued. Each credit shall be charged against an appropriation made by the Council for the purpose of honoring such tax rehabilitation exemptions.

(Ord. No. 2020-148, § 1(26-594), 9-14-2020)

Sec. 26-606. Partial exemption runs with real estate; penalty for nonpayment of taxes; forfeiture of exemption.

(a) *Exemption runs with real estate.* Exemption from taxation of real property qualifying for the partial tax exemption provided for in Section 26-605 shall run with the real estate, and the owner of such property, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, during each of the years of partial exemption shall be entitled to receive a credit for such partial exemption from taxation.

(b) *Penalty for nonpayment of taxes.* Whenever the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of real property that has qualified for partial exemption of real estate taxes in accordance with this division shall fail to pay one-half of the nonexempted amount of real estate taxes on the property on or before January 14 of any tax year or the remaining one-half of such taxes on or before June 14 of any tax year, a penalty shall be added for that installment of one-half of ten percent of the real estate taxes which were claimed for exemption in that tax year.

(c) *Forfeiture of exemption.* For real property qualifying for partial exemption of real estate taxes in accordance with this division, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed

for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at the rate set forth in Section 26-361 on the nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30, if June 30 falls on a weekend, of the tax year in question.

(Ord. No. 2020-148, § 1(26-595), 9-14-2020)

Sec. 26-607. Demolition of certain structures; rehabilitation of structures in old and historic districts and design overlay districts; improvements on vacant land not qualified.

(a) *Demolition of certain structures.* For substantially rehabilitated commercial or industrial structures or other improvements, no exemption shall be allowed if the substantial rehabilitation is achieved through the demolition and replacement of any structure either registered as a Virginia Landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark, regardless of any changes in ownership or of any changes in the boundaries of the parcel, either or both, that may occur after the demolition, whether any such change is achieved by splitting such parcel, combining such parcel with another parcel or otherwise. If any qualified structure is designated as a Virginia Landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark, and the exterior of such structure is or is proposed to be altered in any manner during the rehabilitation process provided for in this division, the Director of Economic Development shall obtain written confirmation from the Director of Planning and Development Review or the designee thereof that such rehabilitation complies with the requirements of such registration or determination in order to continue with the qualifying process. If additional guidance is needed concerning whether such rehabilitation complies with the requirements of such registration or determination, the Director of Planning and Development Review or the designee thereof may seek technical assistance from the Virginia Department of Historic Resources for further clarification.

(b) *Rehabilitation of structures in old and historic districts and design overlay districts.* For substantially rehabilitated structures or other improvements subject to the provisions of Chapter 30, Article IX, Division 4 or 5, no exemption shall be allowed if such substantial rehabilitation is achieved through or results in a violation of the provisions of Chapter 30, Article IX, Division 4 or 5, or if the owner of any such structure or other improvement has not obtained the approval required by Section 30-930.6 for old and historic districts or the approval required by Section 30-940.7 for design overlay districts.

(c) *Improvements on vacant land not qualified.* No improvements made upon vacant land shall be eligible for the partial exemption from real estate taxation provided for in this division. For purposes of this subsection, the phrase "vacant land" means real estate with no structures or other improvements.

(Ord. No. 2020-148, § 1(26-596), 9-14-2020)

Sec. 26-608. Classification of rehabilitated structures eligible for partial tax exemption; application forms; rules and regulations.

(a) The City Assessor shall identify real property that qualifies for a partial tax exemption for a rehabilitated structure or other improvement. For the first year that any property is found to be qualified for such exemption, the City Assessor shall identify the property in the appropriate class. Any qualifying property shall be so identified for the full period of exemption provided for the appropriate class, and the owner of the property shall be entitled to receive a credit for each year so listed. The City Assessor shall furnish to the Director of Finance a list of all properties with qualified structures for which application has been made in accordance with this division, which list shall show the base value and initial rehabilitated assessed value for each qualified structure so that the Director of Finance may issue the appropriate credits to owners of the qualified structures.

(b) The Director of Finance, upon receipt of notice from the Director of Economic Development that a structure has been found to be qualified for and eligible for partial tax exemption as a rehabilitated structure or other improvement, shall cause to be issued a credit in an amount equal to the difference in taxes as computed upon the base value and the initial rehabilitated assessed value. The credit shall be issued in the name of the owner of the property. Whenever practicable, such credit shall be forwarded with the tax statement for such qualified structure.

(c) The Director of Economic Development shall cause to be prepared and shall have for distribution in the Department of Economic Development and in the Office of the Commissioner of Buildings applications for use by property owners who propose to rehabilitate eligible structures or other improvements.

(d) The Director of Economic Development may prescribe such rules and regulations as the Director of Economic Development deems necessary for processing applications for exemption for rehabilitated property and exempting the property. A copy of any such rules and regulations shall be available in the Department of Economic Development and the Office of Commissioner of Buildings, as well as in the Office of the City Clerk.

(Ord. No. 2020-148, § 1(26-597), 9-14-2020)

Sec. 26-609. Effective date of exemption.

The partial exemption authorized in this division shall be effective for applications for partial tax exemption filed on or after the effective date of the ordinance providing for this division, and for each year thereafter for properties which qualify and for which application is made in accordance with this division until otherwise provided by law.

(Ord. No. 2020-148, § 1(26-598), 9-14-2020)

Sec. 26-610. Evaluation of exemption program; expiration of division.

(a) The partial exemption program herein created shall be reevaluated, beginning on January 1, 2021, and every five years thereafter, by the Chief Administrative Officer, and the Chief Administrative Officer shall make a recommendation to the City Council as to whether or not the partial exemption program established by this division should continue in effect. The Chief Administrative Officer shall present the program evaluation results and recommendations to the City Council concerning the continuation or termination of the program on February 15 of every fifth year, beginning with February 15, 2021, that the program established by this division is in effect.

(b) The evaluation criteria shall include, but not necessarily be limited to:

(1) The number of applications submitted;

(2) The number of applications meeting the requirements of this division;

(3) The number, type, and description of properties qualifying for partial tax exemption under this division;

(4) The total dollar amount of the resulting assessment credit approved;

(5) The revenue impact on the City both with and without the existence of the program; and

(6) Any other quantifiable data that can be used to measure the overall effect of the program.

(c) This division shall expire on June 30, 2026, unless the Council adopts an ordinance extending this expiration date.

(Ord. No. 2020-148, § 1(26-599), 9-14-2020)

Secs. 26-611—26-620. Reserved.

ARTICLE VI. BANK FRANCHISE TAX*

***State law reference—**Bank franchise tax authorized, Code of Virginia, § 58.1-1208.

Sec. 26-621. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bank means as defined in Code of Virginia, § 58.1-1201.

Net capital means a bank's net capital computed pursuant to Code of Virginia, § 58.1-1205.

(Code 1993, § 27-136; Code 2004, § 98-281; Code 2015, § 26-612)

Cross reference—Definitions generally, § 1-2.

Sec. 26-622. Levy; rate; branch bank.

(a) Pursuant to Code of Virginia, § 58.1-1208, there is hereby imposed upon each bank located within the boundaries of the City a tax on net capital equaling 80 percent of the State rate of franchise tax set forth in Code of Virginia, § 58.1-1204.

(b) If any bank located within the boundaries of the City is not the principal office but is a branch extension or affiliate of the principal office, the tax upon such branch shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 1993, § 27-137; Code 2004, § 98-282; Code 2015, § 26-613)

Sec. 26-623. Filing of return and payment.

(a) On or after January 1, but not later than March 1 of any such year, all banks, the principal offices of which are located within the City, shall prepare and file with the Director of Finance a return as provided by Code of Virginia, § 58.1-1207 in duplicate, which shall set forth the tax on net capital computed pursuant to Code of Virginia, § 58.1-1205. The Director of Finance shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.

(b) If the principal office of a bank is located outside the boundaries of the City and such bank has branch offices located within the City, in addition to the filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the Director of Finance a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212.

(c) Each bank, on or before June 1 of each year, shall pay to the Collector all taxes imposed pursuant to this article.

(Code 1993, § 27-138; Code 2004, § 98-283; Code 2015, § 26-614)

Sec. 26-624. Penalty upon bank for failure to comply with article.

Any bank which shall fail or neglect to comply with Section 26-623 shall be subject to a penalty and interest as provided in Code of Virginia, § 58.1-1216.

(Code 1993, § 27-139; Code 2004, § 98-284; Code 2015, § 26-615)

Secs. 26-625—26-634. Reserved.

ARTICLE VII. UTILITY TAXES*

***Charter reference—**Collection of taxes from purchasers of any public utility service within City, § 2.02(a).

Cross reference—Utilities, Ch. 28.

State law reference—Authority for utility tax, Code of Virginia, § 58.1-3814.

Sec. 26-635. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Category of consumers is defined as a class by their service provider. For a gas utility, a category of consumers includes those served under a rate schedule established by the pipeline distribution company and approved by the State Corporation Commission or, where applicable, the City Council.

ccf means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Competitive telephone service includes all local telephone services or equipment furnished in the City by telephone companies subject to public utility regulation in competition with services or equipment furnished by or available from persons not subject to public utility regulation.

Consumer includes every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity, natural gas or telephone services in the City.

Gas utility includes each public utility authorized to furnish natural gas service in the Commonwealth.

Kilowatt hours (kwh) delivered means 1,000 watts of electricity delivered in a one-hour period by an electric

provider to an actual consumer; however, for eligible customer-generators (sometimes called cogenerators) as defined in Code of Virginia, § 56-594, it means kwh supplied from the electric grid to such customer generators, minus the kwh generated and fed back to the electric grid by such customer generators.

Pipeline distribution company means a person, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Seller includes every person, whether a public service corporation of the City or not, who sells or furnishes a utility service.

Service provider means the person who delivers electric, telephone or other such utility services to the consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Utility service includes all local telephone service, except competitive telephone service, electric service, natural gas service, water service, and cable television furnished in the City.

(Code 1993, § 27-151; Code 2004, § 98-316; Code 2015, § 26-634)

Cross reference—Definitions generally, § 1-2.

Sec. 26-636. Levy of taxes on residential local telephone, electric and natural gas services; levy of taxes on commercial local telephone, commercial and industrial electric and natural gas services.

(a) The City hereby imposes and levies the following taxes on residential local telephone, electric utility and natural gas utility services which shall be collected by the seller from the consumer on a monthly basis at the time the purchase price or charge shall become due or payable under the agreement between the consumer and the seller:

(1) Upon each consumer of residential local telephone service, except competitive telephone service, a tax in the amount of 25 percent of monthly charges for the first $20.00.

(2) Upon each consumer of metered residential electric service, a tax in the amount of $1.40 plus $0.015116 on each kilowatt hour (kwh) delivered. The maximum amount of tax imposed on residential consumers shall not exceed $4.00 per month.

(3) Upon each consumer of residential gas service, a tax in the amount of $1.78 plus $0.10091 per 100 cubic feet (ccf) delivered monthly. The maximum amount of tax imposed on residential consumers shall not exceed $4.00 per month.

(4) Upon each consumer of competitive telephone service, a tax in the amount of four percent of the first $625.00 of monthly charges and five percent of any amount in excess thereof.

(b) The City hereby imposes and levies the following taxes on commercial local telephone, commercial and industrial electric utility and gas utility services which shall be collected by the seller from the consumer on a monthly basis at the time the purchase price or charge shall become due or payable under the agreement between the consumer and the seller:

(1) Upon each consumer of commercial telephone services, except competitive telephone service, a tax in the amount of 25 percent of the first $625.00 of monthly charges and five percent of any amount in excess thereof.

(2) Upon each consumer of commercial metered electric service, a tax in the amount of $2.75 plus $0.016462 per kilowatt hour (kwh) delivered monthly for the first 8,945 kwh and $0.002160 for all kwh in excess of 8,945.

(3) Upon each consumer of industrial metered electric service, a tax in the amount of $2.75 plus $0.119521 per kilowatt hour (kwh) delivered monthly for the first 1,232 kwh and $.001837 for all kwh in excess of 1,232.

(4) a. Upon each consumer of commercial gas service (small volume), as defined by the service provider, a tax in the amount of $2.88 plus $0.1739027 per 100 cubic feet (ccf) delivered monthly.

b. Upon each consumer of commercial gas service (large volume), as defined by the service provider, a tax in the amount of $24.00 plus $0.07163081 per ccf delivered monthly.

(5) Upon each consumer of industrial metered gas service, as defined by the service provider, a tax in the amount of $120.00 plus $0.011835 per ccf delivered monthly.

(6) Upon each consumer of competitive telephone service, a tax in the amount of four percent of the first $625.00 of monthly charges and five percent of any amount in excess thereof.

(Code 1993, § 27-152.1; Code 2004, § 98-317; Code 2015, § 26-635)

Sec. 26-637. Levy of tax for enhanced emergency telephone service.

A tax of $36.00 per year, payable at the rate of $3.00 per month, is hereby imposed on each consumer for each line of telephone service provided by any corporation subject to Code of Virginia, Title 58.1, Ch. 26 (Code of Virginia, § 58.1-2600 et seq.) However, Federal, State and local government agencies and consumers of CMRS, as defined in Code of Virginia, § 56-484.12, shall not be subject to this tax. The tax payable each month shall be added to monthly statements tendered for telephone service in an amount equal to $3.00 per line serving each such consumer of telephone service and shall be paid to the company tendering the statement. The telephone company shall make remittance of the taxes collected by virtue of the enactment of this section simultaneously with remittance of the utility tax collected by such company pursuant to Section 26-365.

(Code 1993, § 27-153; Code 2004, § 98-319; Code 2015, § 26-637)

State law reference—State tax for enhanced 911 service, Code of Virginia, § 58.1-1730.

Sec. 26-638. Levy of tax upon purchase of cable television service.

(a) There is hereby levied and imposed upon each purchaser of cable television service a tax in the amount of seven percent of the charge made by the seller of such cable television service to the purchaser thereof, the proceeds of such tax to be used for general purposes. A charge made for installation of cable television service shall be exempt from the levy of the tax.

(b) Cable television services are to be defined as follows:

(1) The one-way transmission to subscribers of video programming and other programming services, together with subscriber interaction, if any, which is required for the selection of such programming and programming services.

(2) Examples of cable services include, but are not limited to, the following:

a. Video programming.

b. Pay-per-view.

c. Voter preference polls in the context of video programming rating services.

d. Teletext.

e. One-way transmission of any computer software.

f. One-way video text services (news, stock market information and on-line air guides).

g. Catalog services that do not allow customer purchases.

h. Pay television.

i. Converter rentals or sales.

j. Studio rentals.

k. Advertising services.

(Code 1993, § 27-154; Code 2004, § 98-320; Code 2015, § 26-638; Ord. No. 2004-92-121, § 1, 5-24-2004)

Sec. 26-639. Exemptions; applicability to local telephone service.

(a) The United States, the State, the political subdivisions, boards, commissions and authorities thereof, and public service answering points (PSAPs) are hereby exempt from the payment of the tax imposed and levied by this article with respect to the purchase of utility services used by such governmental and PSAPs.

(b) The tax imposed and levied on purchases with respect to local telephone service under this article shall

apply to all charges made for local telephone service, except local telephone calls which are paid for by inserting coins in coin-operated telephones. The total amount of the guaranteed charge on each bill rendered for semipublic coinbox telephone service shall be included in the basis for the tax with respect to the purchaser of such service.

(Code 1993, § 27-155; Code 2004, § 98-321; Code 2015, § 26-639)

Sec. 26-640. Collection and remittance by seller of utility service.

It shall be the duty of every seller, in acting as the tax collection medium or agency for the City, to collect from the consumer for the use of the City the tax imposed and levied under this article at the time of collecting the purchase price charged therefor. The taxes imposed, levied and collected during each calendar month shall be reported and paid by each seller to the Collector on or before the 15th day of the second calendar month thereafter.

(Code 1993, § 27-156; Code 2004, § 98-322; Code 2015, § 26-640)

Sec. 26-641. Collection and remittance of tax by service provider of electric and gas service.

(a) It shall be the duty of every service provider of electricity and gas service to consumers in the City to collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to the service provider, the tax shall constitute a debt to the City.

(b) If any consumer receives and pays for the electricity or gas service but refuses to pay the tax on the bill that is imposed by the City, the service provider shall notify the City of the name and address of such consumer.

(c) If any consumer fails to pay a bill issued by a service provider, including the tax imposed by the City as stated thereon, the service provider shall follow its normal collection procedures with respect to the charge for electric service and the tax and upon collection of the bill or any part thereof shall:

(1) Apportion the net amount collected between the charge for electric service and the tax; and

(2) Remit the tax portion to the City.

(d) After the consumer pays the tax to the service provider, the taxes shall be deemed to be held in trust by such service provider until remitted to the City.

(Code 1993, § 27-156.1; Code 2004, § 98-323; Code 2015, § 26-641)

Sec. 26-642. Computation of tax on aggregate monthly bill.

(a) When the seller collects the price of utility service at monthly periods, the tax imposed and levied under this article shall be computed on:

(1) Kilowatt hours delivered for electricity service; and

(2) Per 100 cubic feet (ccf) of gas delivered by a gas utility during such month.

All such taxes shall be computed to the nearest whole cent.

(b) The computation of bills not on a monthly basis shall be considered as monthly bills for the purpose of this section if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bill (approximately 60 days) shall be determined as follows:

(1) The kilowatt hours will be divided by two.

(2) A monthly tax will be calculated, using the rates set forth in this article.

(3) The tax determined by subsection (b)(2) of this section shall be multiplied by two.

(4) Where applicable, the tax in subsection (b)(3) of this section may not exceed twice the monthly maximum tax.

(Code 1993, § 27-157; Code 2004, § 98-324; Code 2015, § 26-642)

Sec. 26-643. Records of seller; inspection.

Pursuant to this article, each seller shall keep complete records showing all purchases in the City, which records shall show the price charged against each consumer with respect to each purchase, the date thereof, the date of payment thereof and the amount of tax imposed under this article. Such records shall be kept open for inspection

by the duly authorized agents of the City during regular business hours on business days, and the duly authorized agents of the City shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

(Code 1993, § 27-158; Code 2004, § 98-325; Code 2015, § 26-643)

Sec. 26-644. Powers and duties of Collector.

The Collector shall be charged with the power and the duty of collecting the taxes levied and imposed under this article and shall cause the taxes collected to be paid into the general treasury of the City.

(Code 1993, § 27-159; Code 2004, § 98-326; Code 2015, § 26-644)

Sec. 26-645. Duties of Director or designee.

It shall be the duty of the Director or designee to ascertain who are the persons liable for the taxes levied and imposed under this article and the amount thereof.

(Code 1993, § 27-160; Code 2004, § 98-327; Code 2015, § 26-645)

Sec. 26-646. Penalty.

(a) Any purchaser failing, refusing or neglecting to pay the tax imposed or levied under this article, where the seller has not elected to assume or pay the tax, shall, upon conviction by a judge of the General District Court, be subject to a fine of not less than $5.00 nor more than $500.00 or may be imprisoned in the City jail for a period not exceeding 60 days, either or both. Each day's continuance thereof shall constitute a separate offense.

(b) Any person who is responsible for the collection and remittance of any taxes imposed or levied under this article and who fails to collect, report and remit such taxes to the Collector by the prescribed due date shall be subject to a penalty of ten percent of the taxes due under this article and interest at ten percent per annum and shall, upon conviction by a judge of the General District Court, be guilty of a Class 1 misdemeanor.

(c) Nothing contained in this section shall be construed to relieve the Director from the duty imposed by law of collecting the amount due by any person on account of the taxes prescribed in this article by levying or distraining thereof or otherwise.

(Code 1993, § 27-161; Code 2004, § 98-328; Code 2015, § 26-646)

Sec. 26-647. Exemptions.

The United States, the Commonwealth and the political subdivisions thereof are exempt from the utility tax imposed by this article for utility services.

(Code 1993, § 27-162; Code 2004, § 98-329; Code 2015, § 26-647)

Secs. 26-648—26-667. Reserved.

ARTICLE VIII. MEALS TAXES*

***Cross reference—**Food establishments, § 6-267 et seq.

State law reference—Authority for meals tax, Code of Virginia, § 58.1-3840.

Sec. 26-668. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cater means the furnishing of food, beverages, or both on the premises of another, for compensation.

Collector means the Director of Finance or designee.

Director means the Director of Finance and any duly designated deputies, assistants, inspector or other employees.

Food means all food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the City, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shop, lunch wagon or truck, pushcart or other mobile facility from which food is sold, brewery, public or private club, resort, bar, lounge, or other similar establishment, public or private, and includes private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and that is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded in this article, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

(Code 1993, § 27-176; Code 2004, § 98-361; Code 2015, § 26-668; Ord. No. 2013-196-180, § 1, 9-23-2013)

Cross reference—Definitions generally, § 1-2.

Sec. 26-669. Levy.

There is hereby imposed and levied by the City on each person a tax at the rate of 7 1/2 percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment and whether consumed on the premises.

(Code 1993, § 27-177; Code 2004, § 98-362; Code 2015, § 26-669; Ord. No. 2018-017, § 2, 2-12-2018)

Editor's note—Ord. No. 2018-017, § 3, adopted Feb. 12, 2018, provides: "This ordinance shall be in force and effect on July 1, 2018."

State law reference—Authority for meals tax, Code of Virginia, § 58.1-3840.

Sec. 26-670. Collection by seller.

(a) Every person receiving any payment for food with respect to which a tax is levied under this article shall collect and remit the amount of the tax imposed by this article from the person on whom the tax is levied or from the person paying for such food at the time payment for such food is made. However, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

(b) All tax collections shall be deemed to be held in trust for the City.

(c) Any food establishment that neglects, fails or refuses to collect such tax upon every taxable sale made by the food establishment, its agents, or employees shall be liable for and shall pay the tax itself.

(Code 1993, § 27-178; Code 2004, § 98-363; Code 2015, § 26-670)

Sec. 26-671. Exemptions; limits on application.

(a) No taxes on meals may be imposed pursuant to this article on food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the food stamp program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(b) No such tax on meals may be imposed when sold or provided by (a) restaurants, as such term is defined in Code of Virginia, § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first $100,000.00 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools or institutions of higher education

to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (i) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500.00. For the exemption described in clause (i), the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the City.

(c) The tax shall not be levied on meals:

(1) When used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States;

(2) Provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or

(3) Provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

(d) In addition, as set forth in Code of Virginia, § 51.5-98, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

(Code 1993, § 27-179; Code 2004, § 98-364; Code 2015, § 26-671; Ord. No. 2014-114-87, § 1, 5-27-2014)

State law reference—Similar provisions, Code of Virginia, § 58.1-3840.

Sec. 26-672. Gratuities and service charges.

No tax levied by the provisions of this article shall be imposed upon:

(1) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal;

(2) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price.

(Code 1993, § 27-180; Code 2004, § 98-365; Code 2015, § 26-672)

State law reference—Similar provisions, Code of Virginia, § 58.1-3840.

Sec. 26-673. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay to the City the taxes imposed by this article to make a report thereof setting forth such information as the Director may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The Director shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing this article, and to make transcripts of all or any parts thereof. The reports and remittances required in this article shall be made as required by the Director of Finance, which shall be at least once in every 30-day period and not later than the 20th day of the next month following the month in which such tax was collected.

(Code 1993, § 27-181; Code 2004, § 98-366; Code 2015, § 26-673; Ord. No. 2005-66-53, § 1, 4-25-2005)

Sec. 26-674. Failure or refusal to file return or making a false return.

(a) Any person who willfully fails or refuses to file a return as required under this article or who makes a false or fraudulent return with the intent to evade the tax hereby levied shall, upon conviction thereof, be guilty of a Class 1 misdemeanor; except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor

if the amount of tax lawfully assessed in connection with the return is $1,000.00 or less. Any person violating or failing to comply with any other section of this article shall be guilty of a Class 1 misdemeanor. It shall be prima facie evidence of intent to defraud the City of any tax due under this article when any person reports such person's taxable sales at 50 percent or less of the actual amount.

(b) Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article who willfully fails to collect or truthfully account for or pay over such tax or who willfully evades or attempts to evade such tax or payment thereof shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

(c) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article.

(d) If any person shall fail, refuse or neglect to collect the taxes levied under this article, the Director shall make a statutory assessment as provided in Section 26-435.

(e) The City reserves the right to prosecute violations of the City's tax laws under the applicable criminal provisions of State law.

(Code 1993, § 27-182; Code 2004, § 98-367; Code 2015, § 26-674)

Sec. 26-675. Absorption of tax.

No person shall advertise or hold out to the public, directly or indirectly, that such person will absorb all or any part of the meals tax or that such person will relieve the purchaser of the payment of all or any part of such tax.

(Code 1993, § 27-183; Code 2004, § 98-368; Code 2015, § 26-675)

Secs. 26-676—26-693. Reserved.

ARTICLE IX. ADMISSION TAXES*

***Charter reference**—Authority of City to collect admission taxes, § 2.02(a).

Cross reference—Amusements and entertainments, Ch. 3; businesses and business regulations, Ch. 6.

State law reference—Admission tax, Code of Virginia, § 58.1-3840.

Sec. 26-694. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Admission charge means the charge made for admission to any amusement or entertainment, exclusive of any Federal tax thereon, but including a charge made for season tickets, whether obtained by contribution or subscription, and including a cover charge made for the use of seats or tables or for similar accommodations in the City.

Place of amusement or entertainment means any place in the City wherein or whereat any of the following is located, conducted, performed, exhibited or operated and for which an admission charge is made:

(1) Circus, carnival, menagerie, moving picture show, fair, show or an exhibition of any kind;

(2) Dance;

(3) Baseball, basketball or football game;

(4) Wrestling match, boxing match or sport of any kind;

(5) Swimming contest or exhibition;

(6) Swimming pool;

(7) Concert;

(8) Theatrical, vaudeville, dramatic, operatic or musical performance or a performance similar thereto;

(9) Lecture, talk, literary reading or performance similar thereto;

(10) Such an attraction as a merry-go-round, Ferris wheel, roller coaster, leap-the-dips or the like;

(11) Automobile race, midget auto race or horse race;

(12) Ice skating or roller skating rink or arena; or

(13) Any other public amusement, performance or exhibition not specifically named in this definition.

(b) The foregoing enumeration of specific amusements and entertainments shall not be deemed to exclude other amusements and entertainments otherwise within the meaning of those words.

(Code 1993, § 27-201; Code 2004, § 98-401; Code 2015, § 26-694)

Cross reference—Definitions generally, § 1-2.

Sec. 26-695. Levy.

A tax in the amount of seven percent of any charge for admission to any place of amusement or entertainment where such charge is $0.50 or any amount in excess thereof is hereby levied upon and shall be collected from each person who pays an admission charge of $0.50 or more to any place of amusement or entertainment, one-half cent or more being treated as $0.01.

(Code 1993, § 27-202; Code 2004, § 98-402; Code 2015, § 26-695; Ord. No. 2009-237-2010-12, § 1, 1-25-2010)

Sec. 26-696. Exemptions.

No tax shall be collected under this article by museums, botanical or similar gardens, or zoos. In addition, no admission tax shall be collected under this article for house and garden tours, provided that the purpose of any such event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from the sales and use tax pursuant to Code of Virginia, § 58.1-609.11. For purposes of this section, the term "house and garden tours" means tours conducted by nonprofit entities, either guided or self-guided, of public or private gardens, parks, cemeteries, houses and their ancillary structures, or other similar facilities intended to promote or educate the public on one or more of gardening, horticulture, farming, architecture, landscape architecture, interior decorating, or history.

(Code 1993, § 27-203; Code 2004, § 98-403; Code 2015, § 26-696; Ord. No. 2009-237-2010-12, § 1, 1-25-2010; Ord. No. 2015-40-85, § 1, 5-15-2015)

Sec. 26-697. Season tickets or subscriptions.

Amounts paid for admission by season tickets or subscription shall not be exempt from the tax levied by Section 26-695.

(Code 1993, § 27-204; Code 2004, § 98-404; Code 2015, § 26-697)

Sec. 26-698. Collection.

(a) Every person receiving any payment for admission to any place of amusement or entertainment with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the person making an admission payment at the time of the payment of such admission or from the person admitted free at the time of such admission.

(b) The taxes to be collected under this article shall be deemed to be held in escrow by the person required to collect such taxes until remitted to the City as provided in this article.

(Code 1993, § 27-205; Code 2004, § 98-405; Code 2015, § 26-698)

Sec. 26-699. Report and remittance.

The person collecting any admission tax, as prescribed under this article, shall make out a report upon such forms setting forth such information as the Director of Finance may prescribe and require, showing the amount of admission charges collected, exclusive of the Federal tax thereon, and the tax from the admission for which such person is liable, and shall sign and deliver such report to the City Collector with a remittance of the tax. Except as provided by Sections 26-700 and 26-701, the reports and remittances required in this article shall be made on or

before the 20th day of each month covering the amount of tax collected during the preceding month. If the remittance is by check or money order, it shall be payable to the order of the City, and all remittances received by the City Collector shall be promptly paid into the City treasury.

(Code 1993, § 27-206; Code 2004, § 98-406; Code 2015, § 26-699)

Sec. 26-700. Cessation of business; report and tax due immediately.

Whenever any person required to collect and pay to the City a tax under Section 26-695 shall quit or otherwise dispose of any business, any tax payable under this article to the City shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.

(Code 1993, § 27-207; Code 2004, § 98-407; Code 2015, § 26-700)

Sec. 26-701. Temporary places of amusement or entertainment—Due date of report and payment.

Whenever any place of amusement or entertainment makes an admission charge which is subject to the tax levied by Section 26-695 and the operation of such a place is of a temporary or transitory nature, the Director of Finance shall require the report and remittance of the admission tax to be made on the day following its collection if the operation is for one day only, on the day following the conclusion of a series of performances or exhibitions conducted or operated on more than one day, or at such other reasonable time as the Director shall determine.

(Code 1993, § 27-208; Code 2004, § 98-408; Code 2015, § 26-701)

Sec. 26-702. Temporary places of amusement or entertainment—Deposit or bond.

Before any temporary or transient amusement or entertainment shall begin operation and before any license shall be issued therefor, if a license is required, the person operating the temporary or transient amusement or entertainment shall deposit with the Collector a sum of money or in lieu thereof a bond with corporate surety, conditioned upon the faithful compliance with Section 26-701, and in form approved by the City Attorney in an amount to be estimated by the Director of Finance as sufficient to cover the admission tax required to be collected by such person under Section 26-695 and the amount of license tax required under the applicable provisions of the license schedule included in this chapter, if any. Such money or bond shall be security for the collection of and payment to the City of the admission tax and such license tax. At the conclusion of such transitory or transient operation in the City, such person shall file with the Collector the report required by Section 26-699 and with the Director of Finance a like report showing gross admission charges and pay the tax collected and the license tax assessed to the Collector. Upon such reports being filed and payments being made, the Collector shall refund the deposit or surrender the bond, as the case may be.

(Code 1993, § 27-209; Code 2004, § 98-409; Code 2015, § 26-702)

Sec. 26-703. Temporary places of amusement or entertainment—Collection when operator fails to collect and report.

Should any operator of a temporary or transient amusement or entertainment fail to file the report or pay the taxes required by Section 26-695 within five days from the termination of the operation of the amusement or entertainment, the Director of Finance shall thereupon respectively charge and assess such person with the charges computed upon the basis of the best information available and proceed to collect the taxes out of the deposit or by virtue of the bond and by every other lawful means.

(Code 1993, § 27-210; Code 2004, § 98-410; Code 2015, § 26-703)

Sec. 26-704. Powers and duties of Director or designee.

It shall be the duty of the Director to ascertain the name of every person operating a place of amusement or entertainment in the City who is liable for the collection of the tax levied by Section 26-695. The Director or designee may have a summons or warrant of arrest issued for any person whom the Director has reasonable grounds to believe has failed, refused or neglected to collect the tax or to make, within the time provided by Sections 26-700 and 26-701, the reports or remittances required therein and may serve a copy of such summons or execute such warrant upon such person in the manner provided by law and shall make one return of the original to the judge having jurisdiction of such offense. Police powers are hereby conferred upon the Director or designee and any duly authorized finance employees while engaged in performing their duties as such under this section, and they shall

exercise all the powers and authority of police officers in performing such duties.

(Code 1993, § 27-211; Code 2004, § 98-411; Code 2015, § 26-704)

Sec. 26-705. Violations; penalty.

(a) Any person violating or failing to comply with any of the sections of this article shall, upon conviction in General District Court, be punished as provided for Class 1 misdemeanors. Each such violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of such tax, penalties and interest, as provided in this article.

(b) The City reserves the right to prosecute violations of the City's tax laws under the applicable criminal provisions of State law.

(Code 1993, § 27-212; Code 2004, § 98-412; Code 2015, § 26-705)

Secs. 26-706—26-723. Reserved.

ARTICLE X. TRANSIENT LODGING TAX*

***Charter reference—**Authority of the City to levy taxes, § 2.02(a).

Cross reference—Hotels and motels, § 6-23 et seq.; boardinghouses, lodginghouses and roominghouses, § 13-83 et seq.

State law reference—Certain excise taxes permitted, Code of Virginia, § 58.1-3840.

Sec. 26-724. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Day means any 24-hour period or portion thereof for which a room rental charge is made.

Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, roominghouse or other lodging place containing ten or more bedrooms within the City offering lodging, as defined in this section, for compensation to any transient, as defined in this section.

Lodging means space or room furnished any transient.

Transient means any person who, for a period of not more than 90 consecutive days, either at the person's own expense or at the expense of another, lodges or obtains lodging at any hotel. However, this term shall be deemed not to include a person enrolled in and attending full-time a school, college or university within the corporate City limits; nor shall it include a person who is in the City for the commercial production of a film or video and who commits in advance to lodging at a hotel and actually stays for a minimum of 30 consecutive days.

(Code 1993, § 27-226; Code 2004, § 98-446; Code 2015, § 26-724)

Cross reference—Definitions generally, § 1-2.

Sec. 26-725. Levy.

There is hereby imposed and levied by the City on each transient a lodging tax in the amount of eight percent of the charge made for each room rented to such transient in a hotel. Such tax shall be collected from such transient at the time and in the manner provided in this article.

(Code 1993, § 27-227; Code 2004, § 98-447; Code 2015, § 26-725)

Sec. 26-726. Collection.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in escrow by the person required to collect such taxes until remitted to the City as required in this article.

(Code 1993, § 27-228; Code 2004, § 98-448; Code 2015, § 26-726)

Sec. 26-727. Violations.

(a) It is unlawful not to remit the tax due under this article.

(b) Each such violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of such tax, penalties and interest, as provided in this article.

(c) The City reserves the right to prosecute violations of the City's tax laws under the applicable criminal provisions of State law.

(Code 1993, § 27-228; Code 2004, § 98-449; Code 2015, § 26-727)

Sec. 26-728. Reports required.

The person collecting any tax as provided in this article shall make out a report thereof upon such forms and setting forth such information as the Director of Finance may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected, and shall sign and deliver such report to the Collector with a remittance of such tax. Such report and remittance shall be made as required by the Director of Finance which shall be at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

(Code 1993, § 27-229; Code 2004, § 98-450; Code 2015, § 26-728)

Sec. 26-729. Enforcement.

It shall be the duty of the Director or designee to enforce this article.

(Code 1993, § 27-230; Code 2004, § 98-451; Code 2015, § 26-729)

Sec. 26-730. Effective date.

This article shall be in force and effect July 1, 1970, and shall continue to be in force and effect until otherwise provided by law or ordinance.

(Code 1993, § 27-231; Code 2004, § 98-452; Code 2015, § 26-730)

Secs. 26-731—26-757. Reserved.

ARTICLE XI. RECORDATION TAXES*

***State law reference—**Recordation taxes generally, Code of Virginia, § 58.1-801 et seq.; authority of City to impose recordation taxes, Code of Virginia, §§ 58.1-814, 58.1-3800 et seq.

Sec. 26-758. Deeds.

There is hereby levied on every deed, except a deed exempt from taxation by law, which is admitted to record in the Clerk's Office of the Circuit Court of the City a tax in an amount equal to one-third of the amount of the State recordation tax on every $100.00 or fraction thereof of the consideration of the deed or the actual value of the property conveyed, whichever is greater. Where a deed conveys property lying partly in the City and partly without the City, the tax imposed by this article shall apply only to the value of so much of the property conveyed as is situated within the City. No tax shall be levied under this section when the state recordation tax imposed under Code of Virginia, Title 58.1, Ch. 8 (Code of Virginia, § 58.1-800 et seq.) is $0.50.

(Code 1993, § 27-246; Code 2004, § 98-486; Code 2015, § 26-759; Ord. No. 2004-178-174, § 1, 6-28-2004)

State law reference—Recordation taxes on deeds, Code of Virginia, § 58.1-801.

Sec. 26-759. Deeds of trust or mortgages.

(a) (1) There is hereby levied on every deed of trust or mortgage which is admitted to record in the Clerk's Office of the Circuit Court of the City a tax in an amount equal to one-third of the amount of the State recordation tax on every $100.00 or fraction thereof of the amount of bonds or other obligations secured thereby. In the event of an open or revolving deed of trust, the amount of the obligations for purposes of this section shall be the maximum amount which may be outstanding at any one time.

(2) In any case in which the amount which may be secured under a deed of trust or mortgage is not ascertainable, the tax shall be based upon the fair market value of the property conveyed, determined as

of the date of the deed of trust or mortgage. The fair market value of the property shall include the value of any realty required by the terms of the deed of trust or mortgage to be constructed thereon.

(b) On deeds of trust or mortgages upon the works and property of a railroad lying partly within the City and partly without the City, the tax shall be only upon such proportion of the amount of bonds, or other obligations secured thereby, as the number of miles of the line of such company in the City bears to the whole number of miles of the line of such company conveyed by such deed of trust or mortgage. Upon deeds of trust or mortgages conveying other property lying partly within the City and partly without the City, the tax herein imposed shall be only upon such proportion of the debt secured as the value of the property located within the City, or which may be brought into the City, bears to the entire amount of property conveyed by such deed of trust or mortgage or to the entire amount of property conveyed by all of such deeds of trust or mortgages to secure the bonds or obligations, as applicable, subject to the limitations set forth in subsection (a)(2) of this section.

(c) On deeds of trust or mortgages which provide for an initial issue of bonds to be followed thereafter by additional bonds, unlimited in amount, if such deed of trust or mortgage provides that as and when such additional bonds are issued a supplemental indenture shall be recorded in the office in which the original deed of trust or mortgage is first recorded, which supplement shall contain a statement as to the amount of the additional bonds to be issued, then the tax shall be paid upon the initial amount of bonds when the original deed of trust is recorded and thereafter on each additional amount of bonds when the supplemental indenture relating to such additional bonds is recorded. On deeds of trust or mortgages which are supplemental to or wrap around existing deeds of trust on which the tax imposed hereunder has already been paid, the tax shall be paid only on that portion of the face amount of the bond or obligation secured thereby which is in addition to the amount of the existing debt secured by a deed of trust or mortgage on which tax has been paid. In the event of an open, credit line, or revolving deed of trust, the additional amount secured shall be the amount by which the original obligation secured by the supplemental instrument exceeds the maximum obligation secured by the prior instrument, regardless of the amount owed or outstanding at the time those instruments were recorded. The instrument shall certify the amount of the existing debt.

(d) On deeds of trust or mortgages, the purpose of which is to refinance or modify the terms of an existing debt with the same lender, which debt is secured by a deed of trust or mortgage on which the tax imposed hereunder has been paid, the tax shall be paid only on that portion of the amount of the bond or other obligation secured thereby which is in addition to the amount of the existing debt secured by a deed of trust or mortgage on which the tax has been paid. The instrument shall certify the amount of existing debt.

(Code 1993, § 27-247; Code 2004, § 98-487; Code 2015, § 26-760; Ord. No. 2004-178-174, § 1, 6-28-2004)

State law reference—Recordation tax on deeds of trust and mortgages, Code of Virginia, § 58.1-803.

Sec. 26-760. Construction loan deeds of trust or mortgages

(a) As used in this section, the term "construction loan deed of trust or mortgage" means a deed of trust or mortgage upon real estate, which states therein that it is given to secure a loan for real estate construction, and the terms of which provide that the principal sum owing under the instrument giving rise to the deed of trust or mortgage shall become due and payable on demand or three years or less from the date of such instrument. The term "permanent loan deed of trust or mortgage" means a deed of trust or mortgage upon real estate, the terms of which provide that the principal sum owing under the instrument giving rise to the deed of trust or mortgage shall become due and payable more than three years from the date of such instrument, and such deed of trust or mortgage secures an instrument made by the same persons who made the instrument which the construction loan deed of trust or mortgage secured and substantially the same real estate is conveyed thereby.

(b) The tax provided by Section 26-759 shall apply to construction loan deeds of trust or mortgages.

(c) The tax provided by Section 26-759 shall not be imposed upon a permanent loan deed of trust or mortgage, as defined herein, if such deed of trust or mortgage is recorded within three years of the date of the recordation of the construction loan deed of trust or mortgage, as defined herein, and the tax on the construction loan deed of trust or mortgage has been paid. However, if the permanent loan deed of trust or mortgage, as defined herein, secures an instrument, the principal amount of which is more than the construction loan deed of trust or mortgage, the tax shall be imposed and calculated on the additional amount. Such permanent loan deed of trust or mortgage shall contain a reference to the construction loan deed of trust or mortgage and the book and page where

recorded.

State law reference—Recordation tax on construction loan deeds of trust or mortgages, Code of Virginia, § 58.1-804.

Sec. 26-761. Contracts relating to real or personal property, etc.; leases.

(a) There is hereby levied on every contract relating to real or personal property and every deed of lease for a term of years which is admitted to record in the Clerk's Office of the Circuit Court of the City a tax in an amount equal to one-third of the amount of the State recordation tax on every $100.00 or fraction thereof of the consideration or value contracted for, provided that when the annual rental provided for in a deed of lease for a term of years multiplied by the term for which the lease runs equal or exceeds the actual value of the property leased, the tax for recording the deed of lease shall be based upon the actual value of the property at the date of the deed of lease, including the value of any realty required by the terms of the lease to be constructed thereon by the lessor. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the lease is to provide additional security for an obligation of the lessor on which the tax has been previously paid, or the assignment of the lessor's interest is made to the person who owns the property which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of the lease.

(b) The tax on the recordation of leases of oil, gas, coal and other mineral rights shall be one-third of the amount to the State recordation tax on same under Code of Virginia, § 58.1-807. The tax on the recordation of a lease of a communications tower or a communications tower site shall be one-third of the amount of the State recordation tax on same under Code of Virginia, § 58.1-807. The tax on the recordation of each lease to affix any communications equipment or antenna to any such tower or other structure shall be one-third of the amount of the state recordation tax on same under Code of Virginia, § 58.1-807.

(Code 1993, § 27-248; Code 2004, § 98-488; Code 2015, § 26-761; Ord. No. 2004-178-174, § 1, 6-28-2004)

State law reference—Contracts generally and leases, Code of Virginia, § 58.1-807.

Sec. 26-762. Contracts relating to sale of rolling stock or equipment.

There is hereby levied on every contract or agreement relating to the sale of rolling stock or equipment, whether the title is reserved in the vendor or not, with a railroad corporation or other corporation or with a person, firm, company or other corporation, which is admitted to record in the Clerk's Office of the Circuit Court of the City a tax in an amount equal to one-third of the amount of the State recordation tax on every $100.00 or fraction thereof of the amount contracted for in such contract or agreement. When such contract or agreement is with a railroad corporation operating partly in the City and partly without the City, the tax imposed by this article shall apply only to such proportion of the amount contracted for as the number of miles of the line of the railroad corporation in the City bears to the whole number of miles of line of the railroad corporation.

(Code 1993, § 27-249; Code 2004, § 98-489; Code 2015, § 26-762; Ord. No. 2004-178-174, § 1, 6-28-2004)

State law reference—Recordation tax on contracts for sales of rolling stock and equipment, Code of Virginia, § 58.1-808.

Sec. 26-763. Additional taxes not required for certain deeds.

When the tax has been paid at the time of the recordation of the original deed, no additional recordation tax shall be required to be paid for admitting to record:

(1) A deed of confirmation;

(2) A deed of correction;

(3) A deed in which a husband and wife are the only parties;

(4) A deed arising out of a contract to purchase real estate; if the tax paid is less than the proper tax based upon the full amount of consideration or actual value of the property involved in the transaction, an additional tax shall be paid based on the difference between the full amount of and consideration or actual value and the amount on which the tax has been paid; or

(5) A notice of assignment of a note secured by a deed or trust or mortgage.

(Code 1993, § 27-250; Code 2004, § 98-490; Code 2015, § 26-763)

State law reference—What other deeds not taxable, Code of Virginia, § 58.1-810.

Sec. 26-764. Exemptions from taxes levied by Sections 26-758 and 26-759.

(a) The term "trustee," as used in this section, means the trustees mentioned in Code of Virginia, § 57-8 and the ecclesiastical officers mentioned in Code of Virginia, § 57-16.

(b) The taxes levied by Sections 26-758 and 26-759 shall not apply to the following:

(1) To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

(2) To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in Code of Virginia, § 57-16.1, where such real estate is intended to be used exclusively for religious purposes or for the residence of the minister of any such church or religious body;

(3) To the United States; to the State; or to any county, city, town, district or other political subdivision of the State;

(4) To the Virginia Division of the United Daughters of the Confederacy;

(5) To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital not for pecuniary profit;

(6) To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to Section 351 of the Internal Revenue Code, as it exists at the time of the conveyance;

(7) From a corporation to its stockholders upon complete or partial liquidation of the corporation or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to Section 331, 332, 333 or 337 of the Internal Revenue Code, as it exists at the time of liquidation;

(8) To the surviving or new corporation upon merger or consolidation of two or more corporations, or in a reorganization within the meaning of Section 368(a)(1)(C) and (F) of the Internal Revenue Code, as amended;

(9) To a subsidiary corporation from its parent corporation or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code, as amended;

(10) To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

(11) From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

(12) To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries;

(13) When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

(14) When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

(15) When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or

pursuant to a written instrument incident to such divorce or separation.

(c) The taxes imposed by Sections 26-758 and 26-759 shall not apply to any deed of trust or mortgage:

(1) Given by an incorporated college or other incorporated institution of learning not conducted for profit;

(2) Given by the trustee of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in Code of Virginia, § 57-16.1;

(3) Given by any nonstock corporation organized exclusively for the purpose of owning or operating a hospital not for pecuniary profit;

(4) Given by any local government entity or political subdivision of the State to secure a debt payable to any other local government entity or political subdivision;

(5) Securing a loan made by an organization described in subsection (b)(13) of this section;

(6) Securing a loan made by the City or an agency thereof, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

(7) Given by any entity organized pursuant to Code of Virginia, Title 56, Ch. 9.1 (Code of Virginia, § 56-231.15 et seq.).

(d) No recordation tax shall be required for the recordation of any deed of gift between an individual grantor and an individual grantee when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

(e) The tax imposed by Section 26-761 shall not apply to any lease to the United States; the State; or any county, city, town, district or other political subdivision of the State.

(f) The taxes imposed by Sections 26-758 through 26-762 shall not apply to:

(1) Any deed of gift conveying real estate or any interest therein to The Nature Conservancy; or

(2) Any lease of real property or any interest therein to The Nature Conservancy;

where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural or open space areas.

(g) No recordation tax levied pursuant to this article shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

(h) No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (Code of Virginia, § 33.2-1800 et seq.) or similar Federal law.

(i) No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (Code of Virginia, § 64.2-621 et seq.) when no consideration has passed between the parties.

(j) No recordation tax levied pursuant to this article shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, the term "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (Code of Virginia, § 64.2-779.1 et seq.).

(Code 1993, § 27-251; Code 2004, § 98-491; Code 2015, § 26-764)

State law reference—Exemptions from state recordation tax, Code of Virginia, § 58.1-811.

Sec. 26-765. Supplemental instruments.

(a) The taxes levied by Sections 26-759 through 26-762 shall not apply to any deed of trust, deed of subordination, mortgage, contract, agreement, modification, addendum or other writing supplemental to any such deed, mortgage, contract, agreement, modification, addendum or other writing theretofore admitted to record and upon which the tax imposed by this article has been paid, when the sole purpose and effect of the supplemental deed or writing is to convey property, in addition to or in substitution, in whole or in part, of the property conveyed in the original instrument, to secure or to better secure the payment of the amount contracted for in the original instrument, to alter the priority of the instrument, as to modify the terms, conditions, parties or provisions of the original instruments, other than to increase the amount of the principal obligation secured thereby.

(b) The assumption of a deed of trust shall not be separately taxable under Section 26-758, 26-759, 26-760 or 26-761, whether such assumption is by a separate instrument or included in the deed of conveyance.

(Code 1993, § 27-252; Code 2004, § 98-492; Code 2015, § 26-765)

State law reference—Similar provisions, Code of Virginia, § 58.1-809.

Sec. 26-766. Certain rerecorded instruments.

The taxes levied by this article shall not apply to any deed, deed of trust, mortgage, deed of lease, contract or agreement rerecorded in the same clerk's office when the record containing such deed, deed of trust, mortgage, deed of lease, contract or agreement has been destroyed by fire or otherwise.

(Code 1993, § 27-253; Code 2004, § 98-493; Code 2015, § 26-766)

State law reference—Similar provisions, Code of Virginia, § 58.1-812.

Sec. 26-767. Collection.

The taxes levied by this article shall be determined and collected by the clerk of the court in whose office such deeds, deeds of trust, mortgages, deeds of lease, contracts and agreements are first offered for recordation, and such instruments may thereafter be recorded in the office of the clerk of any other court in the City without the payment of any tax. Any instrument may also be recorded free of tax in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed. Except as otherwise provided in this article, no such deed, deed of trust, mortgage, deed of lease, contract or agreement shall be admitted to record without the payment of the tax imposed thereon by this article. The Clerk of the Circuit Court of the City shall pay the taxes collected into the City treasury at such time as shall be required by the Director of Finance.

(Code 1993, § 27-254; Code 2004, § 98-494; Code 2015, § 26-767)

State law reference—Payment prerequisite to recordation, Code of Virginia, § 58.1-812.

Secs. 26-768—26-787. Reserved.

ARTICLE XII. PROBATE OR ADMINISTRATION TAXES*

***State law reference—**Tax on wills and administrations, Code of Virginia, § 58.1-1711 et seq.; authority of City to tax wills and administrations, Code of Virginia, § 58.1-1718.

Sec. 26-788. Levy.

There is hereby imposed and levied by the City on the probate of every will or grant of administration within the City, not exempt by law, a tax in an amount equal to one-third of the amount of the State tax on such probate of a will or grant of administration.

(Code 1993, § 27-266; Code 2004, § 98-526; Code 2015, § 26-788)

State law reference—State tax rate, Code of Virginia, § 58.1-1712; authority to tax, Code of Virginia, § 58.1-1718.

Sec. 26-789. Determination and collection.

The taxes levied by this article shall be determined and collected by the clerk of the court in whose office the probate of such wills or grants of administration are first offered for recordation, and such instruments may thereafter be recorded in the office of the clerk of any other court in the City without the payment of any tax. No such probate of wills or grants of administration shall be admitted to record without the payment of the tax imposed

by this article. The Clerk of the Circuit Court of the City shall pay the taxes collected into the City treasury at such time as shall be required by the Director of Finance.

(Code 1993, § 27-267; Code 2004, § 98-527; Code 2015, § 26-789)

Secs. 26-790—26-816. Reserved.

ARTICLE XIII. DOG AND CAT LICENSE TAXES*

***Cross reference—**Dog and cat licenses, § 4-185 et seq.; evidence of rabies vaccination required before issuance of dog or cat license, Code of Virginia, § 4-368.

State law reference—Dog licenses generally, Code of Virginia, § 3.2-6526 et seq.

Sec. 26-817. Levy.

(a) There is levied and imposed for each calendar year a tax of $10.00 for each license issued for each dog or cat four months old or older, except dogs and cats kept in a kennel. There is levied for each calendar year a tax of $25.00 on each license issued for each kennel consisting of not more than 20 dogs or cats, and a tax of $40.00 on each license issued for each kennel consisting of more than 20 dogs or cats and not more than 50 dogs or cats.

(b) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing-impaired person, or that is trained and serves as a service dog for a mobility-impaired or otherwise disabled person. As used in this subsection, the term "hearing dog," "mobility-impaired person," "otherwise disabled person" and "service dog" shall have the meanings assigned to such terms in Code of Virginia, § 51.5-40.1.

(c) No license shall be issued for a kennel consisting of more than 50 dogs or cats.

(Code 1993, § 27-281; Code 2004, § 98-561; Code 2015, § 26-817; Ord. No. 2014-164-154, § 1(98-561), 9-8-2014)

State law reference—Dog or cat license authorized, Code of Virginia, § 3.2-6528.

Sec. 26-818. Liability; due date; payment.

The license tax as prescribed in Section 26-817 shall be due not later than 30 days after a dog or cat has reached the age of four months, or not later than 30 days after an owner acquires a dog or cat four months of age or older and each year thereafter. Any kennel license tax shall be due on January 1 and not later than January 31 of each year.

(Code 1993, § 27-282; Code 2004, § 98-562; Code 2015, § 26-818)

State law reference—Similar provisions, Code of Virginia, § 3.2-6530; when license tax payable, Code of Virginia, § 3.2-6530.

Sec. 26-819. Composition of license; tags.

A dog or cat license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show in all capital letters, "RICHMOND, VIRGINIA" and shall bear a serial number. The tag for dogs or cats kept in a kennel shall show the maximum number of dogs and cats authorized to be kept in the kennel under the license, and there shall be issued therewith a metal identification plate for each dog and cat authorized to be kept in the kennel under the license, numbered to correspond with the serial number of the tag.

(Code 1993, § 27-283; Code 2004, § 98-563; Code 2015, § 26-819; Ord. No. 2020-012, § 1(26-819), 1-27-2020)

State law reference—What dog licenses shall consist of, Code of Virginia, § 3.2-6526.

Sec. 26-820. Licenses required annually; vaccination.

Dog and cat licenses shall be issued to and obtained annually by persons liable for the license tax levied by this article and shall be effective for one year from the date issued. Any person liable for the license tax levied by this article may obtain a dog or cat license by making oral or written application therefor to the Collector or agent, accompanied by payment of the license tax and a certificate that the dog or cat for which the license is to be issued has been vaccinated or treated for rabies. For a spayed or neutered dog or cat, the purchaser of such license shall certify in writing to the Collector or agent the name and address of the veterinarian performing the operation and the date of the operation.

(Code 1993, § 27-284; Code 2004, § 98-564; Code 2015, § 26-820; Ord. No. 2020-012, § 1(26-820), 1-27-2020)

State law reference—Evidence showing inoculation for rabies prerequisite to obtaining dog or license, Code of Virginia, § 3.2-6521.

Sec. 26-821. Duplicate tags.

If a dog or cat license shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the Collector or agent who issued the license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the Collector or agent that the original license tag has been lost, destroyed or stolen, the Collector or agent shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog or cat. The Collector or agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog or cat shall be $1.00.

(Code 1993, § 27-285; Code 2004, § 98-565; Code 2015, § 26-821)

State law reference—Similar provisions, Code of Virginia, § 3.2-6532.

Sec. 26-822. Disposition and use of revenue.

(a) The Director of Finance shall keep all money collected for dog and cat license taxes in a separate account from all other funds collected. The City shall use the funds for the following purposes:

(1) The salary and expenses of the animal control supervisor and necessary staff.

(2) The care and maintenance of a public animal shelter.

(3) The maintenance of a rabies control program.

(4) Efforts to promote sterilization of dogs and cats.

(5) Payments as a bounty to any person neutering or spaying a dog up to the amount of one year of the license tax as provided by ordinance.

(6) Payments for compensation as provided in Code of Virginia, § 3.2-6553.

(b) The City Council may supplement the animal control fund with other funds as it considers appropriate, but it shall do so to the extent necessary to provide for subsections (a)(1) and (2) of this section.

(Code 1993, § 27-286; Code 2004, § 98-566; Code 2015, § 26-822)

State law reference—Similar provisions, Code of Virginia, § 3.2-6534.

Sec. 26-823. False statements to secure license; penalty for failure to obtain license.

(a) It shall be unlawful for any person to make a false statement in order to secure a dog or cat or kennel license to which such person is not entitled. Upon conviction thereof, such person shall be guilty of a Class 4 misdemeanor.

(b) It shall be unlawful for any person liable for the license tax levied by this article to fail, refuse or neglect to pay the license tax annually, or to fail, refuse or neglect to pay the license tax when otherwise required by Section 26-818. If an officer determines that a license has not been obtained, the officer shall, then and there, issue and serve a summons upon such owner to appear in court for violation of the license law. Such owner may, in lieu of appearing in court on their turn date of such summons, within five working days of the date of receipt of such summons, pay a fine of $15.00 if such summons is for a first offense; and a fine of $25.00 if it is for a second offense or subsequent offense. Upon conviction of violating this subsection, such person shall be fined not less than $15.00 for the first offense and $25.00 for any subsequent offense and such person shall be required by the court or judge trying the case to obtain the proper license forthwith.

(c) Failure to obtain a license is a Class 4 misdemeanor.

(d) Payment of the license tax subsequent to the issuance of a summons or warrant to appear before a court or judge for violation of this section shall not relieve such person from the penalty required to be imposed by this section.

(Code 1993, § 27-287; Code 2004, § 98-567; Code 2015, § 26-823; Ord. No. 2020-012, § 1(26-823), 1-27-2020)

Sec. 26-824. Payment of license tax subsequent to summons.

Payment of the license tax imposed under this article subsequent to a summons to appear before a court for failure to pay the license tax within the time required shall not relieve such owner from the penalties provided in Section 4-97.

(Code 1993, § 27-288; Code 2004, § 98-568; Code 2015, § 26-824)

State law reference—Similar provisions, Code of Virginia, § 3.2-6536.

Sec. 26-825. Violations.

Any person violating this article shall be subject to the penalties specified in Section 4-97.

(Code 1993, § 27-289; Code 2004, § 98-569; Code 2015, § 26-825)

Secs. 26-826—26-843. Reserved.

ARTICLE XIV. SALES TAX*

***Cross reference—**Businesses and business regulations, Ch. 6.

State law reference—Virginia Retail Sales and Use Tax Act, Code of Virginia, § 58.1-600 et seq.

Sec. 26-844. Levied.

(a) There is hereby levied and imposed, in addition to all other taxes and fees of every kind imposed, a general retail sales tax at the rate of one percent to provide revenue for the general fund. The rate of the tax shall be added to the rate of the State retail sales tax imposed by Code of Virginia, Title 58.1, Ch. 6 (Code of Virginia, § 58.1-600 et seq.) and shall be subject to all the provisions of such sections and all amendments thereof and the rules and regulations published with respect thereto. However, the applicable brackets of prices shall be prescribed in Code of Virginia, § 58.1-628 for the combined tax, and no discount under Code of Virginia, § 58.1-622 shall be allowed on the tax levied by this section.

(b) It is the purpose of the Council in adopting this section to levy the general retail sales tax authorized to be levied by Code of Virginia, § 58.1-605.

(Code 1993, § 27-301; Code 2004, § 98-601; Code 2015, § 26-844)

Secs. 26-845—26-866. Reserved.

ARTICLE XV. LICENSE TAXES*

***Charter reference—**Authority to levy and collect license taxes generally, § 2.02(a) (see also § 2.07).

Cross reference—Businesses and business regulations, Ch. 6.

State law reference—Licenses generally, Code of Virginia, § 58.1-3700 et seq.; authority of City to impose license taxes, Code of Virginia, § 58.1-3703.

DIVISION 1. GENERALLY

Sec. 26-867. Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the Commonwealth and notwithstanding any other current ordinances or resolutions enacted by the City Council, whether or not compiled in this Code, to the extent of any conflict, the sections of this article shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons engaged therein within the City.

(Code 1993, § 27-311; Code 2004, § 98-631; Code 2015, § 26-867)

Sec. 26-868. Levy and collection generally.

There shall be levied and collected for each license tax year or for such other period of time as may be specifically provided a license tax on every person engaged in a business, profession or occupation in the City, unless otherwise exempted by law. It shall be the responsibility of the Director of Finance to determine

classifications and to assess a business license tax at the appropriate rate.

(Code 1993, § 27-312; Code 2004, § 98-632; Code 2015, § 26-868)

Sec. 26-869. License requirement.

(a) Every person shall apply for a license for each business or profession when engaging in a business in this City if (i) the person has a definite place of business in this City; (ii) there is no definite place of business anywhere and the person resides in this City; or (iii) there is no definite place of business in this City but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Code of Virginia, § 58.1-3715, or public service corporation.

(b) A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(1) Each business or profession is subject to licensure at the location and has satisfied any requirements imposed by State law or provisions of City ordinances;

(2) All of the businesses or professions are subject to the same tax rate or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and

(3) The taxpayer agrees to supply such information as the Assessor may require concerning the nature of the several businesses and their gross receipts.

(c) Each person subject to a license tax shall apply for a license prior to beginning business if the person was not subject to licensure in the City on or before January 1 of the license year or no later than March 1 of the current license year if the person had been issued a license for the preceding license year. The application shall be on forms prescribed by the Director of Finance.

(d) The tax shall be paid with the application if any license is not based on gross receipts or purchases. If the tax is measured by the gross receipts or purchases of the business, the tax shall be paid within 30 days of beginning business.

(e) No business license under this article shall be issued until the person has produced satisfactory evidence that all delinquent business license, real estate, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the City have been paid which have been properly assessed against the person by the City.

(Code 1993, § 27-313; Code 2004, § 98-633; Code 2015, § 26-869; Ord. No. 2013-83-52, § 1, 4-22-2013)

Sec. 26-870. Situs of gross receipts.

(a) *General rule.* Whenever the tax imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the City. For activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which the contractor's services are performed or, if the contractor's services are not performed at a definite place of business, then the definite place of business from which the contractor's services are directed or controlled, unless the contractor is subject to Code of Virginia, § 58.1-3715. Any contractor conducting business in the City for less than 30 days without a definite place of business in the City or any other county, city or town of the Commonwealth shall be required to obtain a business license in the City when the amount of business done by the contractor in the City exceeds or will exceed the sum of $25,000.00 for the license year.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or

controlled. However, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to a license tax in two or more localities and who is subject to multiple taxation because the localities use different measures may apply to the State Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of personal services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, and the City and the affected jurisdiction are unable to reach an apportionment agreement, except as to circumstances set forth in Code of Virginia, § 58.1-3709, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the City if the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The Director of Finance may enter into agreements with any other political subdivision of the Commonwealth concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon notification by a taxpayer that the City's method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has resulted, or is likely to result, in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the Director shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the State Department of Taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Code 1993, § 27-314; Code 2004, § 98-634; Code 2015, § 26-870)

State law reference—Situs, Code of Virginia, § 58.1-3700 et seq.

Sec. 26-871. Established.

Except as may be specifically otherwise provided by this article or other law, the annual license tax imposed under this article shall be $30.00 for any person with gross receipts (or purchases for wholesale merchants) of $5,000.00 or more but less than $100,000.00 in a given license year. Any person with gross receipts greater than $100,000.00 will be liable for business license taxes at the applicable rate set forth as follows for the class of enterprise listed or as otherwise provided in this article:

(1) For contractors and persons constructing for their own account for sale, $0.19 per $100.00 of gross receipts.

(2) For retailers, $0.20 per $100.00 of gross receipts.

(3) For financial, real estate and professional services, $0.58 per $100.00 of gross receipts.

(4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this article or otherwise by law, $0.36 per $100.00 of gross receipts.

(5) For wholesalers, $0.22 per $100.00 of purchases.

(6) For fortunetellers, clairvoyants and practitioners of palmistry, $0.36 per $100.00 of gross receipts, provided that such tax shall not exceed $1,000.00 per year.

(7) For itinerant merchants, $500.00 per year; or peddlers, $225.00 per year.

(8) For dealers in precious metals, $1,000.00 per year, as provided in Section 26-965.

(9) For savings and loan associations and credit unions, $50.00 per year.

(10) For direct sellers, as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of $4,000.00, $0.20 per $100.00 of total annual retail sales or $0.05 per $100.00 of total annual wholesale sales, whichever is applicable.

(11) For biotechnology or biomedical research and development businesses, $0.30 per $100.00 of gross receipts.

(12) For hospitals, medical care centers and emergency care units, $0.36 per $100.00 of gross receipts.

(13) For wholesale electric turbine manufacturers, $0.02 per $100.00 of purchases.

(14) For first and second mortgage companies, $0.29 per $100.00 of gross receipts.

(15) For electric utilities furnishing electric lighting or heating (except electric suppliers, as defined in Code of Virginia, § 58.1-400.2), one-half of one percent of the gross receipts.

(16) For telephone companies, three percent of the gross receipts from all local telephone service within the City.

(Code 1993, § 27-315; Code 2004, § 98-635; Code 2015, § 26-871; Ord. No. 2010-183-180, § 1, 10-25-2010)

State law reference—General limitations on tax rates, Code of Virginia, § 58.1-3706.

Sec. 26-872. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acted responsibly means that the taxpayer:

(1) Exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and

(2) Undertook significant steps to avoid or mitigate the failure, such as attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

Affiliated group means those businesses as defined in Code of Virginia, § 58.1-3700.1.

Alcoholic beverages includes the definition thereof contained in the Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100, and includes beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juices.

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the Assessor's:

(1) Examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment;

(2) Determination regarding the rate or classification to the licensable business;

(3) Assessment of a local license tax when no return has been filed by the taxpayer; or

(4) Denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the City, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the City.

Architect means every person engaged in the conduct of a profession as an architect, and every person who for compensation is engaged in the business of preparation and furnishing plans or specifications for the erection or improvement of buildings, whose office or place of business is located in the City.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including any additional or omitted tax, that is due. An assessment includes a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official or mailed to the taxpayer at the taxpayer's last known address. Self-assessments shall be deemed made when a return is filed or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor and *assessing official* mean the Director of Finance or designee.

Auctioneer means a person engaged in the business of conducting a public sale at which items are sold one by one, each going to the last and highest of a series of competing bidders.

Base year means the calendar year preceding the license year, except for contractors subject to Code of Virginia, § 58.1-3715 or beginning businesses subject to Section 26-880.

Beer includes the definition thereof contained in the Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100 et seq., and includes beer, lager beer, ale, porter and similar fermented malt liquor.

Biotechnology and *biomedical research and development* mean the use of various processes to develop or test products for human health care, animal health, food production, food safety, food nutrition, or environmental improvement.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

(2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Business service means any service rendered for compensation to any business, trade, occupation or governmental agency, unless the service is specifically provided for under another section of this Code.

Client company means a person, as defined in Code of Virginia, § 1-230, who enters into a contract with a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

Contract employee means an employee performing services under a PEO services contract or temporary help services contract.

Contractor means that as defined in Code of Virginia, § 58.1-3714(D).

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property

leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

Direct sellers, retail and wholesale, means any person who:

(1) Engages in the trade or business of selling or soliciting the sale of consumer products primarily in private residences and maintains no public location for the conduct of such business;

(2) Receives remuneration for such activities, with substantially all of such remuneration being directly related to sales or other sales-oriented services, rather than to the number of hours worked; and

(3) Performs such activities pursuant to a written contract between such person and the person for whom the activities are performed, and such contract provides that such person will not be treated as an employee with respect to such activities for Federal tax purposes.

Employee benefits means wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, benefits, and similar expenses.

Entity means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

Events beyond the taxpayer's control includes, but is not limited to, the following:

(1) The unavailability of records due to fire or other casualty;

(2) The unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or

(3) The taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when the assessing official provided the erroneous information.

Financial service means buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments. Those engaged in rendering financial services include, without limitation, the following:

(1) Buying installment receivables.

(2) Chattel mortgage financing.

(3) Consumer financing.

(4) Credit card services.

(5) Credit unions.

(6) Factors.

(7) Financing accounts receivable.

(8) Industrial loan companies.

(9) Installment financing.

(10) Inventory financing.

(11) Loan or mortgage brokers.

(12) Loan or mortgage companies.

(13) Safety deposit box companies.

(14) Security and commodity brokers and services.

(15) Stockbrokers.

(16) Working capital financing.

Flea market means a temporary commercial market held in a structure or open area where one or more persons

are involved in the setting up of tables, platforms, racks, or similar display areas for the purpose of selling, buying, or exchanging merchandise, goods, wares, products, or other such items. This definition shall not be construed to include sidewalk sales by retail merchants; fruit or produce stands; bake sales; garage, yard, or estate sales held in conjunction with residential uses; or sponsored activities conducted by religious, civic, charitable or other nonprofit organizations conducted not more than four times during the calendar year.

Frivolous means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

Fuel sale or *fuel sales* means retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gas retailer means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gross receipts means the whole, entire, total receipts without deduction.

Hotel and *motel* mean any building or group of buildings containing guestrooms or dwelling units which are intended, used or designed to be rented, let or hired out for compensation by automobile tourists or other transients, whether such compensation is paid directly or indirectly. This includes motels, motor hotels, tourist courts, motor lodges, and the like. Daily or weekly rental of units or any sign on the premises making reference to other than monthly rates shall be considered prima facie evidence that a building is a hotel and subject to all hotel restrictions and ordinances.

Independent registered representative means an independent contractor registered with the United States Securities and Exchange Commission.

Itinerant merchant means any person who engages in, does, or transacts any temporary or transient business in the City and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

Jeopardized by delay means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the City; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

Junk dealer means every person selling, bartering or exchanging any kind of secondhand articles, junk, rags, rag cullings, bones, bottles, pewter, scrap, metals, metal drosses, steel, iron, old lead pipe, old bathroom fixtures, old rubber, old rubber articles, paper or other like commodities, and except furniture, clothing, shoes and stoves intended to be resold for use as such.

License fee means the fixed sum prescribed by a particular section of this article to be assessed on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged in business in the City as provided by Code of Virginia, § 58.1-3703(A).

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Parking lot means a place or lot, other than a duly licensed public garage, where space is provided for the storage or parking of motor vehicles for compensation.

PEO (professional employer organization) services means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

PEO services contract means a contract pursuant to which a staffing firm provides PEO services for a client company.

Personal service means rendering for compensation any repair, personal, business or other services not

specifically classified as financial, real estate or professional service under this article or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Code of Virginia, Title 58.1 (Code of Virginia, § 58.1-1 et seq.).

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state Department of Taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Provider of funeral services means any person engaged in the funeral service profession, operating a funeral service establishment, or acting as a funeral director or embalmer.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term also includes the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

Real estate agent means every person engaged in the business of a real estate agent or a real estate broker in the City and having an office or place of business in the City.

Real estate service means rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:

(1) Appraisers of real estate.

(2) Developer.

(3) Escrow agents, real estate.

(4) Fiduciaries, real estate.

(5) Lessors of real property.

(6) Real estate agents, brokers and managers.

(7) Real estate selling agents.

(8) Rental agents for real estate.

(9) Subdivider.

Real estate services means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

Repair service means the repairing, renovating, cleaning or servicing of some article or item of personal property for compensation, unless the service is specifically provided for under another section of this Code.

Restaurants, eating houses, lunchstands, lunchrooms, etc., means an establishment which sells, offers for sale, cooks or otherwise furnishes for compensation, diet, food or refreshments of any kind at a house or place of business for consumption therein.

Retail merchant, consignment, means any retail merchant who sells or offers for sale goods, wares and merchandise which such merchant has acquired from others on a consignment or other such basis.

Retail merchant, vending, means every person who sells merchandise by means of machines operated on the coin-in-the-slot principle.

Retailer and *retail merchant* mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser, including flea markets, as defined in this section, or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users, and peddlers as defined in Section 6-418.

Security broker means a "broker" as such term is defined under the Securities Exchange Act of 1934 (15 USC 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

Security dealer means a "dealer" as such term is defined under the Securities Exchange Act of 1934 (15 USC 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

Services means things purchased by a customer which do not have physical characteristics or which are not goods, wares, or merchandise.

Speculative builder means every person who is engaged in the business of erecting a building for the purpose of selling or renting the building and who makes no contract with a duly licensed contractor for the erection of the building, whether or not such person contracts with one or more such contractors for one or more portions, but does not contract with any one person for all of the work of erecting any one of the buildings.

Staffing firm means a person, as defined in Code of Virginia, § 1-230, who provides PEO services or temporary help services.

Temporary help services means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

Temporary help services contract means a contract pursuant to which a staffing firm provides temporary help services for a client company.

Travel agent means every person engaged in the business of:

(1) Buying, selling or exchanging for passengers railroad, steamship, bus or airplane tickets;

(2) Securing or arranging for passengers transportation on a railroad, steamship, bus or airplane; or

(3) Managing, arranging or conducting tours for five or more persons in any one tour or trip by railroad, steamship, automobile, bus or airplane, or by a combination of any of them.

Wholesaler and *wholesale merchant* include any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial and industrial users which, because of the quantity, price, or other terms, indicate that they are consistent with sales at wholesale.

Wine includes the definition thereof contained in the Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100, and includes wine and similar fermented vinous liquor and fruit juices.

(Code 1993, § 27-316; Code 2004, § 98-636; Code 2015, § 26-872)

Cross reference—Definitions generally, § 1-2.

Sec. 26-873. Exemptions.

(a) Any person with gross receipts (or purchases for wholesale merchants) of $5,000.00 or more but less than $100,000.00 in a given license year is exempt from payment of business license tax on the gross receipts of the business for the license tax year to which those receipts apply. For persons with gross receipts or purchases equal to or greater than $100,000.00, the tax liability will be calculated on total gross receipts as provided in Section 26-871. For persons with gross receipts less than $5,000.00, there will be no tax liability. Notwithstanding anything contained in this subsection, this section shall not apply to any person taxable under Section 26-956(d). Further, notwithstanding anything else contained in this subsection, any person exempt from business license tax based on purchases or gross receipts of $5,000.00 or more but less than $100,000.00 shall be obligated to pay a license fee of $30.00. Those persons with gross receipts or purchases of less than $5,000.00 will not be required to pay the license fee; however, such persons will be required to comply with the license and permit requirements applicable

to the business activity in which they are engaged in the City.

(b) Further, notwithstanding anything else contained in this article, any person engaged in business as a contractor will continue to be licensed in accordance with Code of Virginia, § 58.1-3715. Contractors whose principal office or business is not located in the City and whose gross receipts are greater than $25,000.00 but less than $100,000.00 will be subject to the license fee as indicated in subsection (a) of this section.

(c) No tax shall be payable under this article by such persons, businesses, services, or corporations exempted from local business license taxation as provided in Code of Virginia, § 58.1-3703.

(d) Specific exemptions for the Young Men's Christian Association, Young Women's Christian Association, unincorporated groups or associations of members of churches or other religious associations of a like character:

(1) No section of this article relating to retail merchant or restaurant licenses shall have application to such organizations, provided the entire net revenues obtained from the sale or furnishing of diet, food or refreshments are devoted exclusively to the religious or other charitable activities of such churches or associations.

(2) Nothing in Section 26-1007(c) shall have application to the conduct or operation of a boardinghouse or lodginghouse formed by such organizations, in connection with the religious or other activities of such organizations, provided the entire net revenues are devoted exclusively to the religious or other charitable activities of such organizations.

(e) No license taxes prescribed in this article shall be required to be paid for any amusement, performance, exhibition, entertainment or show held or conducted exclusively for religious, charitable or benevolent purposes. This subsection shall not exempt from the payment of the prescribed license taxes any amusement, performance, exhibition, entertainment or show by any person who makes it such person's business to give such exhibitions, no matter what the terms may be of any contract entered into or under what auspices, if given by such person for religious, charitable or benevolent purposes. The intent and meaning of this subsection is that every person who makes it such person's business to give performances, exhibitions, entertainments or shows for compensation, whether a part of the proceeds are for religious, charitable or benevolent purposes or not, shall pay the license taxes prescribed in this article.

(f) Manufacturers who offer for sale at the place of manufacture goods, wares and merchandise manufactured by such manufacturers at wholesale are exempt from license taxes on such sales.

(g) Nothing in this chapter shall require a license tax from an individual who is employed as a teacher in a school conducted in the City by another person. Every individual who, alone and not in combination or association in any manner, form or character whatsoever with any other individual, firm, partnership, association or corporation, teaches, tutors or coaches other individuals in the academic subjects of mathematics, history, English, geography, language, government, science or music shall not be subject to the license tax levied by this article.

(h) Nothing in this chapter shall require a license tax on or measured by receipts of a nonprofit organization described in Internal Revenue Code Section 501(c)(3) or Section 501(c)(19) except to the extent the organization has receipts from an unrelated trade or business, the income of which is taxable under Internal Revenue Code Section 511 et seq. For the purpose of this subsection, the term "nonprofit organization" means an organization that is described in Internal Revenue Code Section 501(c)(3) or Section 501(c)(19) and to which contributions are deductible by the contributor under Internal Revenue Code Section 170, except that educational institutions exempt from Federal income tax under Internal Revenue Code Section 501(c)(3) shall be limited to schools, colleges and other similar institutions of learning.

(i) Nothing in this chapter shall require a license tax on or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration that are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subsection, the term "nonprofit organization" means an organization exempt from Federal income tax under Internal Revenue Code Section 501 other than the nonprofit organizations described in subsection (h) of this section.

(j) No license tax is required for any of the following:

(1) On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in Code of Virginia, § 58.1-3731 or as permitted by other provisions of law;

(2) For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of the City, provided such products are grown or produced by the person offering them for sale;

(3) Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

(4) On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in Code of Virginia, §§ 58.1-3712 and 58.1-3713;

(5) Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the City. This subsection shall not be construed as prohibiting any a license tax on a peddler at wholesale;

(6) Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, campgrounds, bed and breakfast establishments, lodginghouses, roominghouses, and boardinghouses; however, if the City imposed such a license tax on January 1, 1974, it shall not be precluded from the levy of such tax by the provisions of this subsection;

(7) On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Code of Virginia, Title 13.1, Ch. 3, Art. 2 (Code of Virginia, § 13.1-312 et seq.), or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

(8) On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude the City from levying a wholesale merchant's license tax on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

(9) On any insurance company subject to taxation under Code of Virginia, Title 58.1, Ch. 25 (Code of Virginia, § 58.1-2500 et seq.) or on any agent of such company;

(10) On any bank or trust company subject to taxation in Code of Virginia, Title 58.1, Ch. 12 (§ 58.1-1200 et seq.);

(11) Upon a taxicab driver, if the City has imposed a license tax upon the taxicab company for which the taxicab driver operates;

(12) On any blind person operating a vending stand or other business enterprise under the jurisdiction of the State Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in Code of Virginia, § 51.5-98;

(13) On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. The term "accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

(14) On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the City if located in the City;

(15) On total assessments paid by condominium unit owners for common expenses. The term "common expenses" and "unit owner" have the same meanings as in Code of Virginia, § 55.1-1900; or

(16) On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in Code of Virginia, § 58.1-3606.1 and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (Code of Virginia, § 33.2-1800 et seq.) or similar Federal law.

(Code 1993, § 27-318; Code 2004, § 98-637; Code 2015, § 26-873; Ord. No. 2016-165, § 1, 6-27-2016)

State law reference—Similar provisions, Code of Virginia, § 58.1-3703.

Sec. 26-874. Business license incentive program for qualifying businesses.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Acquisition means the combination of two or more existing businesses where one business acquires the ownership of the other business or businesses.

Business license year means a calendar year.

Change in business form means a change in the organization of an existing business. A change in business form occurs whether such change is voluntary or involuntary and whether such change is recognized by the State Corporation Commission or not recognized by the State Corporation Commission. A change in business form includes a new business entity that meets the definition of "affiliated group," as that term is defined in Code of Virginia, § 58.1-3700.1, where such business conducts business activities that are similar to one or more of the affiliated businesses. However, a new business entity that meets such definition of "affiliated group" but conducts substantially different business activities shall not be treated as a change in business form.

Merger means the combination of two or more existing businesses to establish a new business.

Name change means a change in the name upon which a business trades. A name change occurs whether or not the business registers such name or change of name with the State Corporation Commission.

Qualifying business means a business that locates for the first time in the City of Richmond after the effective date of the ordinance from which this section is derived. A business shall not be deemed to locate in the City for the first time based on a merger, acquisition, similar business combination, name change, or a change in business form. A business shall not be deemed to locate in the City for the first time if there is an existing business in the City trading under the same or substantially similar business name, the businesses conduct similar business activities, or the businesses are related either by a shared ownership structure or by a contractual relationship such as a franchisor/franchisee relationship. A qualifying business shall not include peddlers and itinerant merchants. A qualifying business shall not include a contractor required to obtain a business license by Code of Virginia, § 58.1-3715(B). When applying for any benefit afforded under this section, the applicant shall have the burden of proving qualification as a qualifying business.

Similar business combination means any transaction that has the effect of combining one or more businesses into a single business but is not of the same nature as a merger or an acquisition.

(b) *Business license tax exemption.* A qualifying business that would otherwise be required to pay license taxes pursuant to Sections 26-868 and 26-871 shall be exempt from the payment of such business license taxes and only shall pay a license fee of $30.00. The license tax exemption provided in this section shall apply to the business license year in which the qualifying business locates in the City and to the following business license year. The

exemption provided herein shall not exceed a period of two business license years. A qualifying business shall forfeit any entitlement to the license tax reduction provided in this section if such business is delinquent on any local tax, including, but not limited to, personal property taxes, real property taxes, admissions taxes, meals taxes, or transient occupancy taxes.

(c) *Application and appeal.* Any business seeking to qualify as a qualifying business shall complete an application in writing. The application shall be on forms developed by the Director of Finance. Any determination of qualification or of non-qualification as a qualifying business shall be in writing by the Director of Finance. The appeal of a determination of non-qualification shall follow the appeal process of any other business license tax decision.

(d) *Limitation.* Nothing in this section shall be construed to repeal any requirement of businesses within the City to maintain records or comply with an audit by the Director of Finance. A qualifying business shall report its personal property and gross receipts to the Director of Finance, at such times and in such manner as required by law, and the failure to timely report shall result in the forfeiture of any entitlement to the license tax reduction provided in subsection (b) of this section.

(e) *Construction.* The business license tax incentive program provided herein is in the nature of a partial tax exemption. As such, the rule of construction provided by Article X, Section 6(f) of the Constitution of Virginia shall apply.

(Code 2004, § 98-637.1; Code 2015, § 26-874; Ord. No. 2012-192-2013-8, § 1, 2-11-2013)

State law reference—Authority for above section, Code of Virginia, § 58.1-3703(D).

Sec. 26-875. Permits required for certain licenses.

(a) Every person desiring a license under the provisions of Sections 26-963 and 26-965 to engage in the business of a protective agent or agency under Section 26-932, or to engage in the business of furnishing domestic or clerical help, labor or employment under the provisions of Section 26-991, or as one furnishing detective service or security or guard services under the provisions of Section 26-989, or as a detective or as a solicitor of orders for books, magazines or periodicals under Section 26-975, or as a pawnbroker or operator of a pawnshop under Section 26-983 shall first apply to the Chief of Police for a permit and shall produce to the Chief evidence of the good character of the individual, the members of the firm, or the chief officers of the corporation, as the case may be. It shall thereupon be the duty of the Chief of Police to make a reasonable investigation of the character of the individual, or of each member of the firm, or of each chief officer of the corporation, as the case may be, and if the Chief is satisfied that the individual, the members of the firm, or the principal officers of the corporation, as the case may be, are of good moral character and fit to engage in the proposed business, or to buy, sell or otherwise acquire, the Chief shall issue the permit. The form of the application for the permit and the form of the permit itself shall be prepared and furnished by the Chief of Police.

(b) Every person desiring a license under the provisions of Sections 26-940 through 26-944 and 26-946 or desiring a license as the operator of a bowling alley, skating rink, motion picture theatre or a theatre under the provisions of Section 26-989 shall apply to the Chief of Police for a permit to conduct the business and furnish evidence that the house, building, structure or room in which the proposed business is to be conducted is a suitable place, has facilities for escape in case of fire and is sufficiently strong and safe and otherwise complies with the building code of the City. It shall thereupon be the duty of the Chief of Police to make investigation of the facts in connection with such application. If the Chief of Police is satisfied that the premises are strong and safe and otherwise comply with the building code, the Chief shall issue the desired permit. The application form for the permit shall be prepared and furnished by the Chief of Police and shall be available in the Chief's Office.

(c) For each such permit issued as provided in this section, a fee shall be paid as follows:

Permit fee, as determined by the following groups:			
(1)	Group I:		
	a.	Junk dealers	$35.00

	b.	Medicine vendors	$35.00
	c.	Merchants, secondhand gold, silver jewelry	$440.00
	d.	Employment service	$440.00
	e.	Detective	$35.00
	f.	Detective service	$35.00
	g.	Solicitor, orders for books, magazines and periodicals	$35.00
	h.	Palmistry	$440.00
	i.	Pawnshops, pawnbrokers	$590.00
	j.	Protective agent or agency	$35.00
	k.	Security or group services	$35.00
(2)	Group II:		
	a.	Secondhand dealers	$590.00
	b.	Amusement parks, gardens and buildings	$40.00
	c.	Athletic fields and parks, coliseums, and similar places where charges are made	$40.00
	d.	Carnivals and other shows	$735.00
	e.	Circuses, wild west, trained animal, dog, pony and like shows	$40.00
	f.	Merry-go-rounds, hobby horses and carousels	$145.00
	g.	Motion picture theater, theater	$290.00
	h.	Bowling alley	$80.00
	i.	Skating rink	$80.00
(3)	Group III:		
	a.	Billiard parlor	$735.00
(4)	A renewal fee shall be collected each year for the following listed permits:		
	a.	Detective and detective service	$17.50
	b.	Pawnshop	$220.00
	c.	Billiard parlor	$145.00
	d.	Protective agent or agency	$17.50
	e.	Security or guard services	$17.50

(Code 1993, § 27-319; Code 2004, § 98-638; Code 2015, § 26-875; Ord. No. 2004-209-189, § 2, 7-12-2004)

Sec. 26-876. Certificate of occupancy or of zoning compliance to engage in business or occupation in building, structure or upon premises.

Every person desiring to obtain a license to engage in any business or profession, if such business or profession shall be conducted or engaged in within any building or structure or upon any premises or portion thereof, shall first obtain a certificate of occupancy, as required by the Virginia Uniform Statewide Building Code, or a certificate of zoning compliance, as required in Section 30-1020, in order to obtain any license to engage in a business or profession pursuant to this article.

(Code 1993, § 27-320; Code 2004, § 98-639; Code 2015, § 26-876)

Sec. 26-877. License tax year.

Each license tax year shall commence at the time when the license first becomes assessable and shall expire on December 31 of the calendar year when such license tax first becomes assessable. The license tax for vehicles shall expire on April 30.

(Code 1993, § 27-321; Code 2004, § 98-640; Code 2015, § 26-877)

Sec. 26-878. Refund of prepaid taxes for business ceasing to do business in City.

(a) When any person has procured and has paid for a license to engage in a business, trade, profession, occupation or calling within the City for a period of one year and, during such year, such person ceases to engage in the business, trade, profession, occupation or calling for which such license has been obtained, the person shall be entitled to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the license required is taxed only for that fraction of the year during which such licensed privilege was exercised within the City.

(b) The City shall remit any refund no later than the end of the fiscal year next following the fiscal year in which the taxes were paid for such licensed privilege.

(Code 1993, § 27-322; Code 2004, § 98-641; Code 2015, § 26-878)

State law reference—Similar provisions, Code of Virginia, § 58.1-3710.

Sec. 26-879. Use of decals before beginning of license tax year.

Decals issued for a succeeding license tax year may be used without penalty on and after the first day of the last month prior to the day such new license tax year begins.

(Code 1993, § 27-323; Code 2004, § 98-642; Code 2015, § 26-879)

Sec. 26-880. Beginners.

(a) Every person beginning a business, occupation or profession that is subject to a tax equal to an entry fee and a percentage of the gross receipts of the business shall estimate the amount of the gross receipts of the business that such person will receive between the date of beginning business and the end of the then-current license tax year. The license tax on every such person beginning business shall be a sum equal to the entry fee and the percentage of that estimate prescribed by the particular section of this article applicable to such business, occupation or profession.

(b) Every person whose business, occupation or profession is subject to a license fee or a tax equal to a percentage of the gross receipts of the business, occupation or profession and who was licensed for only a part of the next preceding license tax year shall estimate the amount of the gross receipts of the business, occupation or profession that such person will receive during the then-current license tax year, and the license tax on every such taxpayer shall be as provided in Section 26-871.

(c) Every person beginning a business, occupation or profession that is subject to a license fee or a tax equal a percentage of a basis other than gross receipts of the business shall estimate the amount of the applicable tax base for the period between the date of beginning business and the end of the then-current license tax year, and the tax for that year shall be as provided in Section 26-871.

(d) Every person whose business, occupation or profession is subject to a license fee or a tax equal to a percentage of a basis other than the gross receipts of the business and who was assessable for only a part of the then-next-preceding license tax year shall estimate the amount of the applicable tax base for the then-current license tax year, and the license tax on every such taxpayer shall be as provided in Section 26-871.

(e) Every estimate made in accordance with subsections (a) through (d) of this section shall be subject to correction by the Director of Finance at the close of the license tax year so that the final correct tax shall be computed upon the basis of the actual amount of the applicable tax base at the end of the license tax year.

(f) A penalty of ten percent shall be prescribed on any underestimated amount when the estimate by a taxpayer is less than 80 percent of the actual gross receipts or purchases, as applicable, for the first partial year and first complete calendar year of a taxpayer's new business. However, a taxpayer in the first or second year of business shall be entitled to adjust the amounts previously estimated for gross receipts or purchases and pay without penalty any resulting sums owed, if such payment is received no later than March 1 following the license year.

(Code 1993, § 27-324; Code 2004, § 98-643; Code 2015, § 26-880)

Sec. 26-881. Designation of place of business in license.

Every license to engage in any business, occupation or profession, unless expressly authorized elsewhere or otherwise by law, shall designate the place of such business, occupation or profession at some specified house or other definite place within the City. Engaging in any such business, occupation or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall constitute a violation of this article. A license which does not specify such house or definite place shall be void. However, where the license required is such as to clearly show that the licensee does not have a special house or definite place of business in the City, the license shall designate the residence or place of business of the licensee wherever it may be. Further, any license issued under Sections 26-977, 26-978, 26-979, 26-981, 26-982 and 26-1008 need not designate any specified house or definite place of business.

(Code 1993, § 27-325; Code 2004, § 98-644; Code 2015, § 26-881)

Sec. 26-882. Persons engaged in more than one trade, business, occupation or profession.

Every person engaged in more than one business, occupation or profession in the City for which license taxes are prescribed by this article at more than one rate or at different entry fees shall be assessed with and shall pay the license tax prescribed for the respective businesses.

(Code 1993, § 27-326; Code 2004, § 98-645; Code 2015, § 26-882)

Sec. 26-883. Specific exclusions and deductions from gross receipts.

(a) *General rule.* Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) *Exclusions from gross receipts.* The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Commonwealth retail sales or use tax, for any local sales tax or any local excise tax on cigarettes, or for any Federal or State excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for Federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of the business' own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that

occurred in the regular course of business.

(9) Those receipts which are received by the taxpayer as an agent or fiduciary for the client to be remitted in full to a third party.

(10) Receipts deposited into an escrow account to be disbursed on behalf of the client to a third party.

(11) Receipts paid by a staffing firm to or for the benefit of any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

(12) Amounts collected by any provider of funeral services on behalf of and paid to another person providing goods or services in connection with a funeral. This exclusion shall apply if the goods or services were contracted for by the provider of funeral services or the provider's customer. A provider of funeral services claiming the exclusion shall identify on its license application each person to whom the excluded receipts have been paid and the amount of the excluded receipts paid by the provider of funeral services to such person.

(c) *Deductions from gross receipts or gross purchases.* The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States Federal or state government entity, provided that such property was purchased within two years of the sale to such entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a State or Federal government entity. This exclusion deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the exclusion deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a State or Federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

(Code 1993, § 27-327; Code 2004, § 98-646; Code 2015, § 26-883)

State law reference—Exclusions, deductions from, and limitations on gross receipts, Code of Virginia, § 58.1-3732 et seq.

Sec. 26-884. Procedure for change in address of business.

When a person has obtained a license to carry on any business, occupation or profession at any definite place in the City and desires to move to any other place in the City and wishes the license to be altered accordingly, the Director shall make such alteration, unless there is an express provision elsewhere forbidding removal or alteration in the license.

(Code 1993, § 27-328; Code 2004, § 98-647; Code 2015, § 26-884)

Sec. 26-885. License tins or tags—Issuance; display.

(a) The Director of Finance shall provide tins or tags of such color and design as the Director may prescribe to evidence the payment of the license taxes for peddling and shall deliver the tins or tags to the Collector 15 days before the beginning of the license year. It shall be the duty of the Collector to deliver to every person engaged in peddling the proper tin or tag to evidence the payment of the license tax. The tin or tag shall be conspicuously displayed by the peddler.

(b) Vendor tins issued in accordance with this section that are lost or stolen during the license year for which they are valid may be replaced by the Director at a cost of $25.00 each, as provided in Section 6-483.

(c) The Chief Administrative Officer is authorized to enter into a contract with the State Department of Motor Vehicles for the collection of local motor vehicle license fees. Such contract shall be approved as to form by the City Attorney.

(Code 1993, § 27-329; Code 2004, § 98-648; Code 2015, § 26-885; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-224-219, § 1, 10-24-2005)

Sec. 26-886. License tins or tags—Fee for replacement when lost, etc.

For each renewal tin or tag where the original issued by the Collector has become lost or mutilated, the applicant shall pay to the Collector a fee of $1.00.

(Code 1993, § 27-330; Code 2004, § 98-649; Code 2015, § 26-886; Ord. No. 2005-224-219, § 1, 10-24-2005)

Sec. 26-887. License tins or tags—Loaning, renting, selling, assigning or transferring.

It shall be unlawful for any person to whom a tin or tag is issued upon the payment of any license tax prescribed in this article to give, loan, rent, sell, assign or transfer such tin or tag to another or to otherwise permit another to use in any manner such tin or tag during the license tax year for which it is issued.

(Code 1993, § 27-331; Code 2004, § 98-650; Code 2015, § 26-887; Ord. No. 2005-224-219, § 1, 10-24-2005)

Sec. 26-888. License tins or tags—Accounting for by City officers.

It shall be the duty of the Director of Finance to charge to and deliver to the Collector in bulk all tins and tags provided for in this article and to charge to the Collector all taxes, except such as returned delinquent as provided by law, assessed under this article. The Collector shall collect the license taxes and fees and charges prescribed for the issuance of all tins and tags and shall make daily settlements and statements to the Director of Finance for all money received on account of any of the taxes, fees or charges.

(Code 1993, § 27-332; Code 2004, § 98-651; Code 2015, § 26-888; Ord. No. 2005-224-219, § 1, 10-24-2005)

Sec. 26-889. Refund of unused portion of fees paid for decals.

(a) Any person who disposes of the vehicle for which the license fee has been paid and does not purchase another vehicle may request a refund for the unused portion of the fee paid for the decal.

(b) Effective January 1, 2006, no refunds of local license fees paid on or before December 31, 2005, will be issued for the license fee period of May 1, 2005 through April 30, 2006.

(c) For 2006 license fees and for all subsequent years, the Collector shall refund to the vehicle owner one-half of the license fee paid where the owner has disposed of the vehicle or the garage jurisdiction (i.e., the situs of the vehicle) is no longer the City according to the records maintained by the Virginia Department of Motor Vehicles at any time from January 1 through June 30 of each calendar year. However, where either the ownership of the vehicle or its situs changes after June 30 of each calendar year according to Virginia Department of Motor Vehicles records, no license fees paid by the owner shall be refunded.

(Code 1993, § 27-333; Code 2004, § 98-652; Code 2015, § 26-889; Ord. No. 2005-224-219, § 1, 10-24-2005; Ord. No. 2005-340-282, § 1, 12-12- 2005)

Sec. 26-890. Recordkeeping and audits.

(a) Every person who is assessable with a license tax shall keep sufficient records to enable the Director of Finance to verify the correctness of the tax paid for the license years assessable and to enable the Director of Finance to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the Director of Finance in order to allow the Director of Finance to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction.

(b) The Director of Finance shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. If the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the Office of the Director of Finance upon demand. Every person who fails to keep such books and records and to preserve them for at least seven years shall be assessed with and pay a penalty of up to $500.00.

(c) This penalty shall be assessed and collected in the same manner as license taxes generally are assessed and collected.

(Code 1993, § 27-334; Code 2004, § 98-653; Code 2015, § 26-890)

Sec. 26-891. Time of assessment and payment; penalties and interest; rates of interest.

(a) Except as otherwise provided, every license tax assessable under this article shall be assessable on the first day of the license tax year and shall be due and payable on the first day of the license tax year. The following penalty may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date: ten percent of the tax, or $10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax. Only the late payment penalty shall be imposed unless the assessing official determines that the taxpayer has a history of noncompliance. If an assessment of additional tax is made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud or reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the Treasurer or other collecting official may impose a ten percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

(b) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment at the rate allowed by Code of Virginia, § 58.1-3916. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded, together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916.

(c) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year, provided the additional taxes are remitted by March 1 of the tax year following the tax year for which the taxes were originally estimated.

(d) No interest shall be paid on a refund or charged on a late payment, if such adjustment occurs, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(e) Every person beginning business shall pay the license tax at once. If such license tax is not paid within 30 days from the beginning of business, the license tax shall be subject to penalty and interest, as prescribed in this section, from the 31st day after the date of beginning business until the date of payment.

(f) If any assessment of tax by the assessing official is not paid within 30 days, the Collector may impose a ten percent late payment penalty. The penalties shall not be imposed or if imposed shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that the taxpayer acted responsibly and that the failure was due to events beyond the taxpayer's control.

(g) The Director of Finance may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax. The tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent of the portion paid after the due date.

(Code 1993, § 27-335; Code 2004, § 98-654; Code 2015, § 26-891)

Sec. 26-892. Penalties not applicable to motor vehicles or wagons.

The penalty of ten percent provided for by Section 26-891 on the license taxes assessable under this article shall not be applicable to the license tax prescribed for the operation of motor vehicles on the City streets, nor shall it be applicable to any license tax prescribed for the operation of any wagon on the City streets.

(Code 1993, § 27-337; Code 2004, § 98-656; Code 2015, § 26-893)

Editor's note—Ord. No. 2018-271, § 1, adopted Nov. 13, 2018, repealed former § 26-892, which pertained to installment payments and derived from Code 1993, § 27-336; Code 2004, § 98-655.

Sec. 26-893. Closing of business not to prevent payment of tax for full year.

Nothing in Sections 26-889 through 26-892 shall relieve any taxpayer from the liability for the license tax for the entire license tax year, including any unpaid installment, even though the business, occupation or profession is abandoned or closed for any reason at any time during the license tax year.

(Code 1993, § 27-338; Code 2004, § 98-657; Code 2015, § 26-894)

Sec. 26-894. Liability for additional interest not to extend time for payment.

Nothing contained in Sections 26-889 through 26-893 as to liability for additional interest on assessments shall be construed as extending the time for payment of such assessments or prevent prosecutions under Section 26-895 for nonpayment thereof.

(Code 1993, § 27-339; Code 2004, § 98-658; Code 2015, § 26-895)

Sec. 26-895. Penalty for failure to obtain license.

(a) Every person practicing or engaging in a trade, business, occupation or profession in the City without a license assessable under this article or without paying the entire amount of license taxes assessed plus penalty and interest when due, as provided in Sections 26-891 through 26-894, or having a taxable slot machine in any place in the City without a license shall be guilty of a Class 1 misdemeanor. Nothing contained in this section shall be construed to relieve the Collector from the duty imposed by law of collecting the amount due by any person on account of the license taxes prescribed by levying or distraining therefor or otherwise.

(b) A prosecution or conviction for the violation of this section shall not relieve a taxpayer from the liability for the payment of interest upon any assessment against such taxpayer from the date of such assessment if the assessment is not paid within 30 days from the date of such assessment, as provided in Section 26-900.

(Code 1993, § 27-340; Code 2004, § 98-659; Code 2015, § 26-896)

Sec. 26-896. Penalty for violations other than failure to pay tax or obtain license.

Every person failing to make any return required to be made by this article; making any false or incorrect return required to be made by this article; interfering with the Director in the discharge of duties under this article; or violating any other clause, sentence, paragraph, subsection, section or provision of this article, except the payment of the license taxes prescribed and obtaining the licenses required, shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 27-341; Code 2004, § 98-660; Code 2015, § 26-897)

Sec. 26-897. Procedure for incorrect returns.

In any case, except where otherwise provided in this article, in which the Director or any other tax assessing or tax collecting officer of the City has reason to believe that the return or statement filed with the Director of Finance is incorrect, such officer shall cause an investigation of the taxpayer's books and records to be made and shall ascertain whether the taxpayer has made a true and correct return or statement. To that end, every such officer is expressly authorized and empowered, when necessary, to summon any taxpayer and require the production of all such person's books and papers which the officer has reasonable cause to believe will throw any light upon the matter under investigation and shall also be authorized and empowered to make other and further investigation and examination as the officer may deem proper in order to accurately determine the proper return or statement to be made by any taxpayer.

(Code 1993, § 27-342; Code 2004, § 98-661; Code 2015, § 26-898)

Sec. 26-898. Estimate of taxes upon failure to file returns.

Whenever any person required under this article to file a return or statement with the Director of Finance shall fail or refuse to file such return or statement with the Director, the Director shall make an estimate of the amount of taxes due the City by such person from the best information available and shall assess the taxes on the basis of that information.

(Code 1993, § 27-343; Code 2004, § 98-662; Code 2015, § 26-899)

Sec. 26-899. Assessment of additional license taxes.

If the Director of Finance or other assessing officer ascertains that any person has been regularly assessed with a license tax levied in this article for any license tax year of the three license tax years last past or for the then-current license tax year, but that upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, and the assessment of the license tax in the lesser amount was not due to the fraudulent intent or intent to evade taxes on the part of the person, the Director of Finance or other assessing officer shall assess the taxpayer with the additional license taxes found to be due, without any penalty or interest. If the assessment of the additional tax is not paid into the City treasury on the date of assessment, interest at the rate set forth in Section 26-431 shall accrue thereon from the date of such assessment until payment. The Collector shall collect such interest along with the tax and in the same manner as the tax may be collected.

(Code 1993, § 27-344; Code 2004, § 98-663; Code 2015, § 26-900; Ord. No. 2011-5-4, § 1, 1-24-2011)

Sec. 26-900. Omitted assessments.

If the Director of Finance or other assessing officer ascertains that any person has not been assessed with a license tax levied in this article for any license tax year of the three license tax years last past or for the then-current license tax year, it shall be the duty of the Director of Finance or other assessing officer to assess the person with the proper license tax for the years so omitted, adding thereto the penalty of ten percent of the license tax and interest on the tax and penalty at the rate set forth in Section 26-431 from the first day of the license tax year for which the assessment is made to the date of payment.

(Code 1993, § 27-345; Code 2004, § 98-664; Code 2015, § 26-901; Ord. No. 2011-5-4, § 1, 1-24-2011)

State law reference—Similar provisions, Code of Virginia, § 58.1-3903.

Sec. 26-901. Erroneous assessments; refunds and exoneration from payment.

(a) In accordance with Code of Virginia, § 58.1-3990, the Director is authorized to refund any local levies or classes of levies of local license taxes erroneously paid, provided such Director is satisfied that any applicant for refund of such taxes has been assessed with local levies of license taxes, as provided in Code of Virginia, §§ 58.1-3980 and 58.1-3981, and such assessment has been erroneously made by an official authorized to make such assessments. Upon such satisfaction that an assessment or portion thereof is erroneous, the amount erroneously assessed shall be certified. If the levy has not been paid, with approval of the Director of Finance and the City Attorney, the applicant shall be exonerated from payment of so much of the levy as is erroneous; if such levy of license taxes has been paid, with the approval of the Director of Finance and the City Attorney, the applicant shall be refunded the amount erroneously paid, together with any penalties and interest paid thereon.

(b) In no event shall a refund be made unless application therefor is made within three years after the last day of the tax year for which the license tax was assessed or one year from the date of the assessment, whichever is later.

(Code 1993, § 27-346; Code 2004, § 98-665; Code 2015, § 26-902)

Sec. 26-902. Powers and duties of Director or designee.

(a) The Director of Finance shall designate such persons in the Department of Finance as deemed necessary and proper, who shall at all times be under the supervision and control of the Director of Finance. These designees shall ascertain the name of each person engaged in conducting any business, occupation or profession in the City without having obtained a license therefor; the name of each person operating or causing to be operated on the City streets a vehicle without having obtained a license therefor; and the name of each person having a slot machine in any place mentioned in this article without having obtained a license therefor. These designees may have a summons or warrant of arrest issued for any such person charging such person with a violation of such summons. When, in the presence of any police officer, any person conducts any business, occupation or profession or operates any vehicle upon the streets or has a slot machine in the person's possession or under the person's control without a license required by this article, the officer may arrest such person and take such person before the nearest and most accessible magistrate.

(b) The Director or designee shall have the power to prescribe such forms as deemed necessary for an efficient administration of this article with respect to license taxes and may require taxpayers to complete and file such forms in such manner as the Director or designee may determine.

(Code 1993, § 27-347; Code 2004, § 98-666; Code 2015, § 26-903)

Sec. 26-903. Payment by mail.

Whenever the payment of any City license tax is required by law to be made to the Collector on or before a given day to avoid a penalty, the receipt by the Collector of a remittance in the mail bearing a postmark on or before 12:00 midnight of the day on or before which the payment is required to be made without penalty shall constitute a payment to the same extent that would have been accomplished had such remittance been delivered in person to the Collector before the close of business of the last day when such payment otherwise could have been made without penalty, even though such remittance is not delivered to the Collector until some time after the last day on which such payment otherwise could have been made without penalty. Whenever the last day upon which any City tax may be paid without penalty falls on Saturday, Sunday or a legal holiday, such payment may be made without penalty on the next succeeding business day.

(Code 1993, § 27-348; Code 2004, § 98-667; Code 2015, § 26-904)

Sec. 26-904. Limitations, extensions, appeals and rulings.

(a) *Administrative appeals to Director of Finance.*

(1) *Definitions.* For purposes of this section:

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a license tax payable by a taxpayer, the denial of a refund, or the assessment of a license tax where none previously was assessed, arising out of the Director of Finance's (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license. An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the City, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the City.

Frivolous means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

Jeopardized by delay means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the City; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(2) *Filing and contents of administrative appeal.*

a. Any person assessed with a license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the Director of Finance. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The Director of Finance may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in

the appeal shall be deemed prima facie correct. The Director of Finance shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

b. The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the City. However, the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

(3) *Notice of right of appeal and procedures.* Every assessment made by the Director of Finance pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

(4) *Suspension of collection activity during appeal.* Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the Director of Finance shall be suspended until a final determination is issued by the Director of Finance, unless the Treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the Director of Finance that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Director of Finance that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of Section 26-891, but no further penalty shall be imposed while collection action is suspended.

(5) *Procedure in event of nondecision.* Any taxpayer whose administrative appeal to the Director of Finance has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the assessing official, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with the provisions of subsection (b) of this section. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the Director of Finance was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the Director of Finance to make his determination.

(b) *Administrative appeal to the Tax Commissioner.*

(1) Any person assessed with a license tax as a result of a determination or that has received a determination with regard to the person's appeal of the license classification or subclassification applicable to the person's business, upon an administrative appeal to the Director of Finance pursuant to subsection (a) of this section, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment or determination to the Tax Commissioner within 90 days of the date of the determination by the Director of Finance. The appeal shall be in such form as the Tax Commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the Director of Finance. The Tax Commissioner shall permit the Director of Finance to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the Director of Finance are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Code of Virginia, § 58.1-1821, and the Tax Commissioner pursuant to Code of Virginia, § 58.1-1822 may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

(2) *Suspension of collection activity during appeal.* On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection (b)(1) of this section, collection activity with respect to the amount in dispute relating to any assessment by the Director of Finance shall be suspended until a final determination is issued by the Tax Commissioner, unless the Treasurer or other official responsible for

the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the Director of Finance or the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Director of Finance that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of Section 26-891, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection (b)(1) of this section is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(3) *Implementation of determination of Tax Commissioner.* Promptly upon receipt of the final determination of the Tax Commissioner with respect to an appeal pursuant to subsection (b)(1) of this section, the Director of Finance shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the Treasurer or other official responsible for collection in accordance with the provisions of this subsection.

a. If the determination of the Tax Commissioner sets forth a specific amount of tax due, the Director of Finance shall certify the amount to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the Tax Commissioner.

b. If the determination of the Tax Commissioner sets forth a specific amount of refund due, the Director of Finance shall certify the amount to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the Tax Commissioner.

c. If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the Director of Finance to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the Director of Finance shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Director of Finance shall certify the new assessment to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

d. If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the Director of Finance to undertake a new or revised assessment that will result in an obligation on the part of the City to make a refund of taxes previously paid, the Director of Finance shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Director of Finance shall certify the new assessment or refund amount to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

(c) *Judicial review of determination of Tax Commissioner.*

(1) *Judicial review.* Following the issuance of a final determination of the Tax Commissioner pursuant to subsection (b)(1) of this section, the taxpayer or Director of Finance may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(2) *Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.*

a. On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the Tax Commissioner pursuant to subsection (b)(1) of this section, and upon payment of the amount of the tax relating to any assessment by the Director of Finance that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the Treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous, as defined in this section; (ii) collection would be jeopardized by delay, as defined in this section; or (iii) suspension of collection would cause substantial economic hardship to the City. For purposes of determining whether substantial economic hardship to the City would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the City by different taxpayers that allege common claims or theories of relief.

b. Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the City, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

c. No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the Director of Finance.

d. The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

e. The suspension of collection activity authorized by this subsection (2) shall not be applicable to any appeal of a license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984 without prior exhaustion of the appeals provided by subsections (a) and (b) of this section.

(3) *Suspension of payment of disputed amount of refund due upon City's notice of intent to initiate judicial review.*

a. Payment of any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to subsection (b)(1) of this section shall be suspended if the City upon the taxpayer, within 60 days of the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to Code of Virginia, § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the City's application for judicial review is frivolous, as defined in this section.

b. No suspension of refund activity shall be permitted if the City's application for judicial review fails to identify with particularity the amount in dispute.

c. The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(4) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of Section 26-891, but no further penalty shall be imposed while collection action is suspended.

(d) *Rulings.*

(1) Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a license tax to a specific situation from the Director of Finance. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the City.

(2) Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the Director of Finance notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Code 1993, § 27-349; Code 2004, § 98-668; Code 2015, § 26-905)

State law reference—Similar provisions, Code of Virginia, § 58.1-3703.1(A)(5)—(A)(8).

Secs. 26-905—26-928. Reserved.

DIVISION 2. SCHEDULE AND GENERAL REGULATIONS APPLICABLE TO CERTAIN BUSINESSES*

***State law reference—**General limitations on rate of license taxes, Code of Virginia, § 58.1-3706.

Sec. 26-929. Advertising—Vehicles carrying sound devices on streets.

(a) No person shall operate or cause to be operated on the City streets a motor vehicle or other moving vehicle on which is situated any mechanical loudspeaker or amplifier as described in Section 11-29 without obtaining a license and paying a license tax therefor. For each such vehicle owned by any person whose bona fide residence or place of business is located in the City, the annual license tax shall be $300.00.

(b) For each such vehicle owned by any person whose bona fide residence or place of business is not located in the City, the license tax shall be $15.00 for each day such vehicle is so operated on the City streets.

(c) Every person whose bona fide residence or place of business is in the City shall have the privilege of procuring a license on a daily basis, as often as such person may desire, and upon the exercise of that privilege the person shall pay a license tax of $15.00 for each day such vehicle is so operated on the City streets.

(d) This section shall not be construed to permit the operation of such vehicles upon the City streets without the payment of the license tax on such vehicles provided for elsewhere in this chapter, nor shall this section be construed to permit the operation of such vehicles upon the City streets for commercial purposes or in any manner contrary to any other law.

(Code 1993, § 27-369; Code 2004, § 98-701; Code 2015, § 26-929; Ord. No. 2011-119-140, § 3, 7-25-2011)

Sec. 26-930. Advertising—Wall and bulletin sign painters, billposters and electric advertising sign business.

(a) Every person engaged in the business of wall or bulletin sign painting or billposting or in the electric advertising sign business, whether on signs or devices erected or maintained by the licensee or not, if the number of such signs and devices do not exceed five shall pay a license tax of $150.00, and if the number of such signs and devices exceeds five, shall pay a license tax of $600.00.

(b) The person making application for a license under this section shall execute a bond with corporate surety

in the penalty of $5,000.00, payable to the City, in a form satisfactory to the City Attorney. The bond shall be conditioned that such person will indemnify and save harmless the City and all other persons from any and all damages to the City and to all other persons and property directly or indirectly resulting from the erection or maintenance of any signs, billboards or other advertising devices or in the conduct of the business, and that such applicant will comply with this section and all laws and ordinances concerning the conduct of the business. The bond shall provide for such indemnity thereunder. The bond, when approved by the City Attorney, shall be filed with the Director of Finance.

(c) Every person conducting the business taxed under this section shall have the name of such person plainly painted or imprinted upon every sign, billboard or other advertising device erected or maintained by such person in such manner as to be plainly discernible from the street.

(d) No advertising sign shall be tacked on any tree, fence, barricade, building or other structure in the City streets or on the property lines under any license under this section.

(e) Nothing in this section shall be construed to require a license tax of any person in the City for advertising such person's own goods or merchandise manufactured in this City and displayed upon such person's own property or upon property leased by such person.

(Code 1993, § 27-370; Code 2004, § 98-702; Code 2015, § 26-930)

Cross reference—District sign regulations, § 30-505 et seq.

Sec. 26-931. Advertising agents.

(a) Every person engaged in the business of an advertising agent or agency shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) For the purposes of this section, gross receipts will be as defined in Section 26-872, but excluding amounts paid by the licensee for any customer for the following:

(1) Advertising space.

(2) Radio or television time.

(3) Electric transcriptions.

(4) Pressings.

(5) Artwork.

(6) Engraving.

(7) Plats, mats, printing or printing stock.

(8) Postage.

(Code 1993, § 27-371; Code 2004, § 98-703; Code 2015, § 26-931)

Cross reference—Advertising practices, § 6-123 et seq.

Sec. 26-932. Protective agents.

Every person engaged in the business of acting as a protective agent or agency and in connection therewith transporting money, bank notes, bills, checks, securities or other valuable property shall pay a license fee of $30.00 or a license tax to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-372; Code 2004, § 98-704; Code 2015, § 26-932)

Sec. 26-933. Real estate agents, brokers, developers and subdividers.

(a) Except as provided in Code of Virginia, § 58.1-3732.2, every person engaged in the business of a real estate agent, a real estate broker, a real estate developer or a subdivider of real estate in the City and having an office or place of business in the City shall pay a license fee of $30.00 or a license tax equal to $0.58 per $100.00 of the gross receipts of the business, as provided in Section 26-871, but excluding commissions on insurance premiums. However, real estate agents whose receipts have been derived from real estate brokers shall not be subject to a business license.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Developer means one who improves and converts a tract of land into an area suitable for residential or business uses. The developer may perform or have performed some or all of the following functions: testing, design, construction, supervision, financing, marketing, etc.

Gross receipts means all earnings, fees, commissions, etc., arising from or growing out of the conduct of the business of a real estate agent, real estate broker, real estate developer or real estate subdivider. Gross receipts shall exclude commissions on insurance premiums and noncommission revenue derived from the sale of a real estate agent's or real estate broker's real property, unless the real estate agent or real estate broker also acts as the developer or subdivider, as defined in this subsection, of such property. Gross receipts of real estate developers and subdividers of real estate shall exclude the cost of land.

Subdivider means one who converts one parcel or tract of land into three or more lots, tracts or parcels of land for the purpose, whether immediate or in the future, or transferring ownership of one or more of such lots, tracts or parcels of land or for the purpose of the erection of buildings or other structures on any one or more of such lots, tracts or parcels of land.

(Code 1993, § 27-373; Code 2004, § 98-705; Code 2015, § 26-933)

State law reference—Limitation on tax rate on financial, real estate and professional services, Code of Virginia, § 58.1-3706.

Sec. 26-934. Alcoholic beverages—License required.

(a) The terms "alcoholic beverages," "alcohol," "spirits," "beer" and "wine," wherever used or referred to in this section or Sections 26-935 through 26-939, shall be as defined in Section 26-872.

(b) Each person who shall engage in the business of bottling, wholesaling or retailing alcoholic beverages shall obtain the license prescribed and shall pay the taxes applicable to the prescribed license.

(c) Alcoholic beverages shall be included in the basis for measuring the wholesale or retail merchant and restaurant license taxes, as prescribed in Sections 26-967 and 26-972, the same as if the alcoholic beverages were nonalcoholic. The license taxes prescribed in Sections 26-967 and 26-972 shall be in addition to the alcoholic beverage license taxes levied in Sections 26-935 through 26-938. No alcoholic beverage taxes levied under Sections 26-935 through 26-939 shall be construed as exempting any licensee from the wholesale or retail merchant and restaurant license taxes prescribed in Sections 26-967 and 26-972.

(Code 1993, § 27-374; Code 2004, § 98-706; Code 2015, § 26-934)

State law reference—Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100 et seq.; authority of City to license persons licensed by the State to manufacture, bottle or sell alcoholic beverage, Code of Virginia, § 4.1-205.

Sec. 26-935. Alcoholic beverages—Bottlers.

Licenses for bottlers of beer shall authorize the licensees to acquire and receive deliveries and shipments of beer in barrels or other closed containers and to bottle, sell and deliver or ship the same. Each licensee under this section shall pay an annual license tax of $500.00.

(Code 1993, § 27-375; Code 2004, § 98-707; Code 2015, § 26-935)

State law reference—Maximum tax, Code of Virginia, § 4.1-233.

Sec. 26-936. Alcoholic beverages—Wholesalers.

Wholesale beer and wine licenses shall authorize the licensees to acquire and receive deliveries and shipments of beer and wine and to sell and deliver or ship the beer and wine in barrels, bottles or other closed containers. Each licensee under this section shall pay an annual license tax of $250.00 (beer) or $50.00 (wine).

(Code 1993, § 27-376(a); Code 2004, § 98-708; Code 2015, § 26-936)

State law reference—Maximum tax, Code of Virginia, § 4.1-233.

Sec. 26-937. Alcoholic beverages—Retailers.

The following establishments holding a license to sell wine or beer issued by the State Alcoholic Beverage

Control Board shall be authorized to sell wine or beer at retail only and not for resale and shall pay an annual license tax as indicated:

(1)	Hotels	$75.00
(2)	Restaurants	$75.00
(3)	Clubs	$75.00
(4)	Retailers within enclosure of baseball parks, stadia, fairgrounds or similar places	$100.00
(5)	Retailers not otherwise classified	$75.00

(Code 1993, § 27-377(a); Code 2004, § 98-709; Code 2015, § 26-937)

State law reference—Maximum tax, Code of Virginia, § 4.1-233.

Sec. 26-938. Alcoholic beverages—Persons holding mixed beverage license issued by State.

(a) Every person holding a mixed beverage license issued by the State Alcoholic Beverage Control Board shall pay an annual license tax as follows:

(1)	Persons operating restaurants, including restaurants located on the premises of and operated by hotels or motels, and with a seating capacity as indicated:		
	a.	Up to 100 persons	$200.00
	b.	101--150 persons	$350.00
	c.	More than 150 persons	$500.00
(2)	A private nonprofit club operating a restaurant located on the premises of such club		$350.00

(b) Taxes levied under this section shall be in addition to those levied in Section 26-937. Each license issued pursuant to this section shall designate the place where the business of the licensee will be conducted, and a separate license shall be required for each separate place of business. No license issued pursuant to this section shall be assigned or transferred, but may be amended to show a change in the place of business.

(Code 1993, § 27-378; Code 2004, § 98-710; Code 2015, § 26-938)

State law reference—Authority of City to impose a license tax on persons holding State mixed beverage licenses, Code of Virginia, § 4.1-205.

Sec. 26-939. Alcoholic beverages—State license required; assigning or transferring; license for each place of business.

(a) No license shall be issued to any person under Section 26-938 unless such person shall have secured or shall secure simultaneously therewith the proper license issued by the State Alcoholic Beverage Control Board.

(b) No license issued under Section 26-938 shall be assigned or transferred, but may be amended to show a change in the place of business.

(c) Each license issued under Section 26-938 shall designate the place where the business of the licensee will be conducted, and a separate license shall be required for each separate place of business.

(Code 1993, § 27-379; Code 2004, § 98-711; Code 2015, § 26-939)

State law reference—Similar licenses, Code of Virginia, § 4.1-1 et seq.

Sec. 26-940. Amusements—Parks, gardens or buildings.

(a) Every person owning or operating an amusement park, garden or building devoted to general amusement and entertainment and which is open to the public for at least three consecutive months during each year shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871. A permit from the Chief of Police is required under Section 26-875 before a license will be issued.

(b) Every person owning or operating an amusement park, garden or building devoted to general amusement and entertainment and which is not open to the public for at least three consecutive months during each year shall pay a license tax for the first week amounting to $450.00 and for each additional week an additional license tax of $525.00. A permit from the Chief of Police is required under Section 26-875 before a license will be issued.

(c) Any license issued under this section shall permit the holder thereof to conduct in the amusement park, garden or building shows such as revues, musical or dancing shows or similar exhibitions; sideshows; moving picture shows; Ferris wheels; toboggan slides; switchbacks; collections of coin-in-the-slot machines; strength testers; ball throwing; ring or can games; baby, knife or cane racks; shooting galleries; merry-go-rounds; hobby horses or carousels.

(Code 1993, § 27-380; Code 2004, § 98-712; Code 2015, § 26-940)

Cross reference—Amusements and entertainments, Ch. 3.

Sec. 26-941. Amusements—Athletic fields and parks, coliseums and auditoriums.

(a) Every person engaged in the business of operating a place where admission charges are made and where a professional basketball, baseball or football game is conducted; where a motion picture, ballet, play, drama, lecture, monologue, comedy, musical revue, musical show or concert is exhibited or conducted; where an instrumental or vocal concert or a concert presenting both instrumental and vocal music is conducted by another or others; or where there is presented or conducted a public show, exhibition or performance of any kind other than such as is taxable under Sections 26-940, 26-943, 26-944, 26-946 and 26-947 shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) Every person presenting a professional basketball, baseball or football game; motion picture, ballet, play, drama, lecture, monologue, comedy, musical revue, musical show or concert; instrumental or vocal concert or a concert of both instrumental and vocal music; or presenting a public show, exhibition or performance of any kind other than such as is taxable under Section 26-940, 26-943, 26-944, 26-946 or 26-947 for which admission charges are made shall pay a license fee of $30.00 or a license tax equal $0.36 per $100.00 of the gross amount of the admission charges and including any other gross receipts of the business, as provided in Section 26-871.

(c) A permit from the Chief of Police is required under Section 26-875 before any license will be issued under this section.

(Code 1993, § 27-381; Code 2004, § 98-713; Code 2015, § 26-941)

Cross reference—Amusements and entertainments, Ch. 3.

Sec. 26-942. Amusements—Billiard, pool and bagatelle parlors.

(a) Every person who shall keep or operate a place wherein there is a table at which billiards, pool or bagatelle are played shall be deemed to keep a billiard room and shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) This section shall not apply to business establishments or clubs in which not more than three coin-operated tables at which billiards, pool or bagatelle are played and where the keeping of such billiard, pool or bagatelle tables is incidental to the operation of the business establishment or club.

(c) Every person required to be licensed under this section to conduct, manage or operate any billiard room within the City shall follow the following procedure:

(1) Apply, in writing, to the Circuit Court of the City or a judge thereof in vacation and the Chief of Police, setting forth the following:

a. The place at which such business shall be conducted.

b. The name and residence of the person proposing to conduct, manage or operate the business and

that such person is fit to conduct the business.

(2) The court or judge and the Chief of Police shall render an opinion, following an investigation, that the place is suitable and the person is fit to conduct, manage or operate the business and that such person will conform to all of the requirements made by law concerning the conduct of billiard rooms.

(3) The court or judge and the Chief of Police shall issue a certificate of those facts for presentation to the Director of Finance by the applicant.

(4) The license taxes indicated in subsection (a) of this section will be assessed, and upon payment to the Collector such person shall be issued a license to conduct, manage or operate the business at the place mentioned in the application.

(d) Every person obtaining a license to operate a billiard room within the City shall operate such establishment only during the hours and in the manner as authorized pursuant to Chapter 3, Article III.

(e) It shall be unlawful for any person to bet or participate in unlawful gaming in any such billiard room, and it shall be unlawful for any proprietor or person in charge of any such room to permit or suffer betting or unlawful gaming of any kind whatsoever to occur therein. For any violation of this subsection, the license of the person conducting the billiard room shall be revoked, provided that such violation is with the knowledge or consent of the proprietor or of the person in charge. Both the person guilty of betting or unlawful gaming and the person conducting the room shall be liable to the penalty imposed for violating this article.

(Code 1993, § 27-382; Code 2004, § 98-714; Code 2015, § 26-942)

Cross reference—Billiard, pool and bagatelle rooms, § 3-44 et seq.

Sec. 26-943. Amusements—Carnivals or other shows.

(a) Every person operating an aggregation of shows, amusements, concessions, eating places or riding devices on one lot or street or on contiguous lots or streets moving from place to place, whether such are owned and actually operated by separate persons or not, shall pay a license tax for the first week amounting to $375.00 and for each additional week a license tax of $525.00. A permit from the Chief of Police is required under Section 26-875 before a license will be issued. No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which such shows are exhibited.

(b) No license shall be granted under this section until the person operating such carnival or other show shall have deposited $300.00 with the Director of Public Works to be used by the Director to clean and put in order such lot or street occupied by the carnival or other show after it has moved away or to be returned to the person when the lot or street has been cleaned and put in order in a manner satisfactory to the Director of Public Works by the person.

(Code 1993, § 27-383; Code 2004, § 98-715; Code 2015, § 26-943)

Cross reference—Amusements and entertainments, Ch. 3.

State law reference—License tax on carnivals, circuses and speedways, Code of Virginia, § 58.1-3728.

Sec. 26-944. Amusements—Circuses or circus menageries; wild west, trained animal, dog, pony or like shows.

(a) Every person operating a circus, circus menagerie or wild west, trained animal, dog, pony or like show shall pay for each day's operation a license tax based upon the number of vehicles used in transporting the show, as follows:

2 to 30 vehicles	$150.00
31 to 60 vehicles	$375.00
61 to 80 vehicles	$525.00
81 to 100 vehicles	$750.00
Over 100 vehicles	$1,050.00

(b) A permit from the Chief of Police is required, as provided in Section 26-875, before a license will be issued for either of the following:

(1) Operating a circus or circus menagerie or wild west, trained animal, dog, pony or like show.

(2) For each street parade in the City when the circus, circus menagerie or wild west, trained animal, dog, pony or like show is located beyond the corporate City limits. Such show shall also pay a license tax of $750.00.

(c) No license shall be granted under this section until the person operating the circus, circus menagerie or wild west, trained animal, dog, pony or like show shall have deposited $300.00 with the Director of Public Works to be used to clean and put in order the lot or street occupied by the circus, circus menagerie or wild west, trained animal, dog, pony or like show after it has moved, or to be returned to the person when the lot or street has been cleaned and put in order by the person in a manner satisfactory to the Director of Public Works.

(d) Tickets of admission to a circus, circus menagerie or wild west, trained animal, dog, pony or like show shall not be sold in excess of the seating capacity of the show, and no person shall be admitted to see the show in excess of the seating capacity. No such show shall be exhibited when the seating capacity has been exceeded.

(Code 1993, § 27-384; Code 2004, § 98-716; Code 2015, § 26-944)

Cross reference—Amusements and entertainments, Ch. 3.

State law reference—License tax on carnivals, circuses and speedways, Code of Virginia, § 58.1-3728.

Sec. 26-945. Amusements—Public dance halls.

(a) Any place that meets the definition of public dance hall set forth in Section 3-70 shall be deemed to be a public dance hall.

(b) Every person operating or conducting any public dance hall shall pay a license tax of $300.00. A permit issued under Chapter 3, Article IV, is required before a license will be issued. The license tax imposed by this section shall be due as provided in Section 26-891.

(Code 1993, § 27-385; Code 2004, § 98-717; Code 2015, § 26-945; Ord. No. 2010-113-159, § 2, 9-13-2010)

Cross reference—Public dance halls, § 3-70 et seq.

Sec. 26-946. Amusements—Merry-go-rounds, hobby horses and carousels.

(a) Every person operating a merry-go-round, hobby horse, carousel or the like shall pay a license tax for each week amounting to $30.00 or for one year a license tax amounting to $150.00.

(b) A permit from the Chief of Police is required under Section 26-875 before a license will be issued.

(Code 1993, § 27-386; Code 2004, § 98-718; Code 2015, § 26-946)

Cross reference—Amusements and entertainments, Ch. 3.

Sec. 26-947. Amusements—Nightclubs.

Every person engaged in the business of operating a place where food or drinks are dispensed and exhibitions, performances or other form of entertainment is provided or dancing is permitted, including, but not limited to, a teenage nightclub, shall pay a license tax of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-387; Code 2004, § 98-719; Code 2015, § 26-947; Ord. No. 2004-175-165, § 1, 6-28-2004)

Cross reference—Amusements and entertainments, Ch. 3.

Sec. 26-948. Auctioneers—Generally.

(a) A person licensed as an auctioneer may sell by auction any property not prohibited by law, as provided in this section.

(b) An auctioneer may conclude the sale of anything such auctioneer is authorized to sell, grant a certificate

or other evidence of sale, and receive the money. However, no auctioneer shall authorize or permit any person to sell any property under and by virtue of the auctioneer's license, unless the person so authorized or permitted is actually and bona fide in the employment of such auctioneer and is actually and bona fide a resident of the City and the commissions on such sale are actually and bona fide for the benefit of such auctioneer.

(c) No license shall be construed to authorize the person to whom it is issued to sell at more than one regular establishment. However, an auctioneer may sell anywhere in the City public stocks, furniture on ships or vessels, on the premises where such may be or at the exchange or the store of a regular licensed merchant declining business, or goods in the original form and packages as imported or bulky articles, such as have been usually sold in warehouses or in the public streets or on the wharves or at such other places in the City, as shall be desired by the owner or importer of such bulky articles or imported goods.

(d) An auctioneer, other than a livestock auctioneer, shall pay a licensee fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross amount of sales of the business, as provided in Section 26-871.

(Code 1993, § 27-388; Code 2004, § 98-720; Code 2015, § 26-948)

Sec. 26-949. Auctioneers—Itinerant real estate.

No auctioneer's license shall be required of persons engaged in business as real estate agents or brokers. However, every person who does not keep a regular place of business in the City, who shall offer real estate for sale at auction or public outcry, shall be deemed an itinerant real estate auctioneer and shall pay a license fee of $450.00 or a license tax equal to $0.36 per $100.00 of the gross sales of the business, as provided in Section 26-871.

(Code 1993, § 27-389; Code 2004, § 98-721; Code 2015, § 26-949)

Sec. 26-950. Auctioneers—Auction of articles at residence of person desiring to dispose of such articles.

(a) No auctioneer's license shall be required for the sale of any wagon, carriage, automobile, mechanics' tools, used farming implements, livestock, poultry, dressed or undressed, seafood, vegetables, fruits, melons, berries, flowers, leaf tobacco, or for the sale of secondhand furniture and household effects when being sold at the residence of the person desiring to dispose of such articles.

(b) No person licensed as provided in this section shall sell at auction, between the hours of 6:00 p.m. and 8:00 a.m. of the following morning, any jewelry, diamonds or other precious stones, watches, clocks, goldware or silverware, gold or silver plated ware, rugs, curtains, carpets, tapestries, statuary, porcelains, chinaware, pictures, painting, bric-a-brac or articles of virtu.

(c) Nothing contained in this section shall be construed to prohibit the sale of any goods or to require the payment of a license tax by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this State or of the United States.

(Code 1993, § 27-390; Code 2004, § 98-722; Code 2015, § 26-950)

Sec. 26-951. Biotechnology or biomedical research and development businesses.

Every person engaged in biotechnology or biomedical research and development, as defined in Section 26-872, shall pay a license fee of $30.00 or a license tax equal to $0.30 per $100.00 of gross receipt of such business, as provided in Section 26-871.

(Code 1993, § 27-391; Code 2004, § 98-723; Code 2015, § 26-951)

Sec. 26-952. Bondsmen.

(a) Every person who shall, for compensation, enter into any bond for others, whether as a principal or surety, shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) No such professional bondsman or agent shall enter into any bond in the City until the license required in subsection (a) of this section has been obtained.

(c) Every person seeking to obtain a license to conduct business as a bondsman in the City must obtain a certificate from a judge of the Circuit Court of the City as required in Code of Virginia, § 19.2-152.1.

(d) A license granted to a professional bondsman shall authorize such person to enter into bonds in the City.

(e) No one may be licensed as a professional bondsman or agent for any professional bondsman when such person, the person's spouse, or a member of such person's immediate family holds any office as magistrate, judge, clerk or deputy clerk of any court.

(f) Nothing in this section shall be construed to apply to guaranty, indemnity, fidelity and security companies doing business in the City under Code of Virginia, Title 38.2, Ch. 24 (Code of Virginia, § 38.2-2400 et seq.), except that agents and attorneys in fact of guaranty, indemnity, fidelity and security companies entering into bonds for bail, appearances, costs or appeals in criminal cases shall be required to obtain a certificate from the judge of the circuit court in which the bondsman desires to carry on the business of professional bondsman, certifying that the applicant is of good moral character, that the bondsman's past conduct before the courts of the City has not been unsatisfactory and that the bondsman is suitable to be a licensed bondsman. Further, this section shall apply to agents and attorneys in fact of guaranty, indemnity, fidelity and security companies entering into bonds for bail, appearances, costs or appeals, except that such company shall not be required to place cash or bonds in escrow with the court as required in this section.

(Code 1993, § 27-392; Code 2004, § 98-724; Code 2015, § 26-952)

State law reference—Authority of City to license bondsmen, Code of Virginia, § 58.1-3724.

Sec. 26-953. Cemeteries.

Every person, except a nonprofit corporation and except a stock corporation the stock of which is by the provisions of its charter nondividend, paying, operating and maintaining a cemetery within the City or having an office or place of business therefor in the City shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871, excluding amounts received from the sale of burial lots.

(Code 1993, § 27-393; Code 2004, § 98-725; Code 2015, § 26-953)

Cross reference—Cemeteries, Ch. 7.

State law reference—Cemeteries generally, Code of Virginia, § 57-22 et seq.

Sec. 26-954. Chartered clubs.

Every person operating or maintaining a chartered club shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871, excluding dues from members.

(Code 1993, § 27-394; Code 2004, § 98-726; Code 2015, § 26-954)

State law reference—Club defined, Code of Virginia, § 4.1-100.

Sec. 26-955. Commission merchants.

(a) Every person who receives or distributes food products, cotton, flour, hay, grain, provisions, dry goods, merchandise or other commodities shipped to such person for distribution on account of the shipper or who participates in the profits ensuing from or accruing out of the sale of such commodities or who invoices such sales or collects money therefor; every person buying or selling for another any kind of merchandise or commodities on commission, except associations or organizations of farmers, and produce exchanges organized and maintained by farmers for mutual help in the marketing of their produce and not for profit; and every person who sells any personal property which may be left with or consigned to such person for sale on commission shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross commissions of the business, as provided in Section 26-871.

(b) Subsection (a) of this section shall not apply to any person who:

(1) On commission, sells merchandise by sample, circular or catalogue, where the goods, wares, merchandise or commodities subsequently delivered are not samples;

(2) Has no office, display room, store or other definite place of business in the City;

(3) Has no stock of goods, wares, merchandise or commodities in such person's custody or possession or

under such person's control at any time during the year; and

(4) Employs no person in connection with such sales or deliveries.

(c) Any person engaged in the business of selling merchandise on commission by sample, circular, or catalogue for a regularly established retailer, who has no stock or inventory under his control other than floor samples held for demonstration or sale and owned by the principal retailer, shall be classified as a commission merchant and taxed only on commission income as provided at the rate of $0.36 per $100.00 of gross receipts. Such person engaged in such business shall not be subject to tax on total gross receipts from such sale.

(Code 1993, § 27-395; Code 2004, § 98-727; Code 2015, § 26-955)

State law reference—License tax on Commission merchants, Code of Virginia, § 58.1-3733.

Sec. 26-956. Contractors—Generally.

(a) Every contractor, as defined in Section 26-872, shall obtain a license for the privilege of transacting business in the City and shall pay a license fee of $30.00 or a license tax as follows and as provided in Section 26-871:

(1) For contracts accepted on a fee basis, $0.36 per $100.00 of the gross amount of all fees received from such contracts.

(2) For contracts accepted on a basis other than a fee basis, $0.19 per $100.00 of the gross receipts from such contracts.

(b) Every person who engages in the business of plumbing or steamfitting and is required to be licensed under this section shall include in the tax basis all receipts with respect to cleaning furnaces or boilers with no additional license taxes assessable for such privilege.

(c) Every license issued in accordance with this section shall designate the regular office or place of business in the City, if any, as the specified house or definite place at which the business is to be conducted. If there is no such regular office or place of business in the City, such license shall designate the first place in the City at which work is to be performed as the specified house or definite place at which the business is to be conducted.

(d) Every person, otherwise required to be licensed under this section, who does not have an office or regular place of business in the City shall be required to obtain a license when the amount of business done by such contractor in the City exceeds the sum of $25,000.00 in any license year. Likewise, any contractor with an office or regular place of business in the City shall exclude from the basis subject to the tax in the City those receipts on which license taxes have been paid to another county, city or town in the Commonwealth as provided in Code of Virginia, § 58.1-3715. Any contractor conducting business in the City for less than 30 days without a definite place of business in the City or any other county, city or town of the Commonwealth shall be required to obtain a business license in the City and pay the appropriate tax or license fee imposed on contractors when the amount of business done by the contractor in the City exceeds or will exceed $25,000.00 for the license year.

(e) Every license issued under this section shall be valid throughout the City.

(f) Every contractor who proposes to do work in the City which requires a permit or contract from a department, bureau or officer of the City shall exhibit to the proper City official a valid City business license for the year in which an application for the permit is made or the contract is awarded. Every contractor for whom a business license has not been required as provided in this section shall provide a written statement attesting to such prior exemption and that, where required, such license shall be obtained prior to beginning the work for which an application for the permit is made or the contract is awarded.

(g) Every contractor required to be licensed under this section shall provide a list of subcontractors to the tax assessment office for all such work performed in the City. Such contractor shall not permit any work to proceed under any subcontract until the subcontractor shall have exhibited a valid City business license. Every subcontractor for whom a business license has not been required as provided in this section shall provide the contractor a written statement attesting to such prior exemption or certifying that, where required, such license shall be obtained prior to beginning the work under the subcontract.

(h) Every contractor required to be licensed under this section shall provide written certification at the time

of application for issuance or reissuance of a business license that such contractor is in compliance with Code of Virginia, Title 65.2, Ch. 8 (Code of Virginia, § 65.2-800 et seq.), and will remain in compliance with such provisions at all times during the effective period of any such business license. Any person who knowingly presents or causes to be presented to City tax officials a false certificate shall be guilty of a Class 3 misdemeanor.

(Code 1993, § 27-396; Code 2004, § 98-728; Code 2015, § 26-956)

Cross reference—Licensing of contractors, § 5-63.

State law reference—Licensing and taxation of contractors, Code of Virginia, §§ 58.1-3706, 58.1-3714 et seq.

Sec. 26-957. Contractors—Speculative builders.

Every person engaged in the business of a speculative builder, as defined in Section 26-872, shall, for the privilege of transacting business in the City, pay a license fee of $30.00 or a license tax equal to $0.19 per $100.00 of the entire cost of the building, as provided in Section 26-871, exclusive of the cost of the land.

(Code 1993, § 27-397; Code 2004, § 98-729; Code 2015, § 26-957)

Sec. 26-958. Contractors—Building wreckers selling materials.

Every person engaged in the business of wrecking, razing or demolishing buildings or structures and selling the material obtained from the buildings or structures shall, in addition to the contractor's license tax, pay for such additional privilege of selling the material an additional license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-398; Code 2004, § 98-730; Code 2015, § 26-958)

Sec. 26-959. Electric utility.

(a) Every person engaged in furnishing current for electric lighting or heating or commercial or railway motive power or other purposes shall pay a license tax equal to one-half of one percent of the gross receipts of the business. In addition, beginning with the first meter readings after December 31, 2000, every person engaged in furnishing current for electric lighting or heating or commercial or railway motive power or other purposes shall remit monthly to the City the local consumption tax portion of the electric utility consumption tax collected from each consumer located in the City based on the following rates per kilowatt hour (kwh) consumed as prescribed in Code of Virginia, § 58.1-2900: $0.00038 per kwh consumed per month not in excess of 2,500 kwh; $0.00024 per kwh consumed per month in excess of 2,500 kwh but not in excess of 50,000 kwh; $0.00018 per kwh consumed per month in excess of 50,000 kwh.

(b) The payment of the license tax under this section shall not be construed to:

(1) Alter, impair or repeal the right of the City to make an annual charge for the setting of poles or the laying of conduits in the City streets or alleys for the purpose of running wires thereon or therein or for any other charges or special taxes that have been or may be agreed upon between the City and the grantee of any franchise rights;

(2) Prevent or impair the right of the City to assess and collect a tax upon the value of any franchise already, now or hereafter granted; or

(3) Prevent or impair the right of the City to impose a tax against the purchaser of a utility service.

(Code 1993, § 27-399; Code 2004, § 98-731; Code 2015, § 26-959)

State law reference—Taxation of public service corporations, Code of Virginia, § 58.1-2600 et seq.; tax on certain public service corporations, Code of Virginia, § 58.1-3731.

Sec. 26-960. Hospitals, medical centers and emergency care units.

(a) Every person engaged in the business of operating a hospital, medical center, and an emergency care unit shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of gross receipts of such business, as provided in Section 26-871.

(b) For the purposes of this section, the term "gross receipts" shall have the same meaning as defined in Section 26-872.

(Code 1993, § 27-400; Code 2004, § 98-732; Code 2015, § 26-960)

Sec. 26-961. Hotels and motels, campsites, trailer parks and other lodging businesses.

Every person engaged in the business of any of the following lodging occupations, trades or businesses shall pay for the privilege of conducting business in the City an annual license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts, as defined in Section 26-872, from the business, as provided in Section 26-871:

(1) Campsite.

(2) Hotel.

(3) Motel.

(4) Cabin.

(5) Trailer park.

(6) Travel trailer site.

(7) Other lodging business.

(Code 1993, § 27-401; Code 2004, § 98-733; Code 2015, § 26-961)

Cross reference—Boardinghouses, lodginghouses and roominghouses, §§ 6-23 et seq., 13-83 et seq.

Sec. 26-962. Industrial loan companies and associations.

(a) Every person engaged in the business of an industrial loan company or association shall pay the following license taxes on capital actually paid in, whether from paid-up stock or partially paid-up stock, as shown by the report made each year to the Director of Finance:

(1)	If such capital is not over $25,000.00	$225.00
(2)	If such capital is over $25,000.00	$225.00
(3)	If such capital is over $25,000.00, on each $1,000.00 or fraction thereof in excess of $25,000.00	$6.00

(b) Every nonresident industrial loan company and association, firm and corporation doing business in this State, the principal office of which is located in the City, shall pay the license tax imposed by this section, based upon its capital investment in this State.

(c) Every industrial loan company or association organized in the City which does business on a purely mutual basis and confines its business solely to the City and to the counties immediately contiguous thereto shall pay a license tax of $300.00.

(d) The maximum tax paid pursuant to this section shall not exceed $500.00.

(Code 1993, § 27-402; Code 2004, § 98-734; Code 2015, § 26-962)

State law reference—License tax on industrial loan associations and agricultural credit associations, Code of Virginia, § 58.1-3730.1.

Sec. 26-963. Junk dealers.

(a) Every person selling, bartering or exchanging any kind of secondhand articles, junk, rags, rag cullings, bones, bottles, pewter, scrap, metals, metal drosses, steel, iron, old lead pipe, old bathroom fixtures, old rubber, old rubber articles, paper or other like commodities, except furniture, clothes, shoes and stoves intended to be resold for use as such, shall pay a license fee of $900.00 and a license tax equal to $0.30 per $100.00 of the gross receipts of the business in excess of $100,000.00.

(b) Every person not taxable under subsection (a) of this section, but engaged in the business of purchasing any of the articles listed in subsection (a) of this section, shall pay a license fee of $900.00 and a license tax equal

to $0.30 per $100.00 of the amount of the purchases of the business made during the preceding license tax year in excess of $100,000.00.

(c) For the purpose of computing the license tax levied by subsection (a) of this section, there shall be excluded from the gross receipts of such business the proceeds from the sale of goods, wares and merchandise that may be manufactured by such person out of the articles or any of them listed in subsection (a) of this section and sold at the place of manufacture.

(d) No license shall be granted to any person to conduct the business licensed by this section until such person shall obtain a permit from the Chief of Police, in accordance with Section 26-875, and, if such person had been previously engaged in such business, further certifying that during the time so engaged such dealer had fully complied with the State tax laws relating to junk dealers. The certificate issued by the Director of Finance to such person shall state that the required certificate from the Chief of Police has been furnished before such certificate was granted.

(e) Every person licensed under this section shall keep a permanent book in which shall be legibly written in ink in English at the time of the transaction the following:

(1) The name of each person from whom items identified in subsection (a) of this section are purchased;

(2) The date when the items are purchased and received;

(3) The residence or place of business of the person from whom such items were purchased; and

(4) A full description of the item purchased.

(f) Every person licensed under this section shall furnish daily to the Chief of Police, in the manner prescribed by the Chief, a full account of each identifiable item purchased. Identifiable items shall include, but not necessarily be limited to, items with a serial number, any items with a special marking such as an engraved Social Security number, any items identified by brand name or model number, or both, or any one-of-a-kind item. The prescribed manner of reporting shall require at least the following information:

(1) A full and complete list of all such articles bought, together with all marks, numbers, prints, letters and monograms on such articles;

(2) The name, address and date of birth of the seller of any such article;

(3) The seller's legible handwritten signature; and

(4) A current photograph in color of the seller in the format prescribed by the Chief of Police.

(Code 1993, § 27-403; Code 2004, § 98-735; Code 2015, § 26-963; Ord. No. 2006-244-257, § 1, 10-23-2006)

Sec. 26-964. Massage practitioners.

Every massage practitioner shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of gross receipts for such service, as provided in Section 26-871.

(Code 1993, § 27-404; Code 2004, § 98-736; Code 2015, § 26-964)

Cross reference—Massage therapy, § 6-60.

Sec. 26-965. Merchants—Gold, silver, diamonds and jewelry.

(a) Every person, with the exception provided in this section, engaged in the business of buying, acquiring or selling secondhand manufactured articles composed wholly or in part of gold, silver, platinum or other precious metals of any kind or description whatsoever; of removing the gold, silver, platinum or other precious metals of any kind or description whatsoever from the secondhand manufactured articles; or of buying, acquiring or selling the gold, silver, platinum or other precious metals of any kind or description whatsoever removed from the secondhand manufactured articles shall pay a license fee of $1,000.00 and a license tax equal to $0.20 per $100.00 of the gross receipts of the business in excess of $100,000.00. However, any person holding a valid license issued by the City to engage in business as a retail merchant shall, in addition to the license fee paid to operate as a retail merchant, pay a license fee of $500.00 and a license tax equal to $0.20 per $100.00 of gross receipts of the business in excess of $100,000.00. Further, any person holding a valid license issued by the City to engage in business as a pawnbroker or to operate a pawnshop shall, in addition to the license fee paid to operate as a pawnbroker or to operate a

pawnshop, pay a license fee of $500.00 and a license tax equal to $0.20 per $100.00 of gross receipts of the business in excess of $100,000.00 annually to engage in the business of buying, acquiring or selling secondhand manufactured articles composed wholly or in part of gold, silver, platinum or other precious metals of any kind or description whatsoever; of removing the gold, silver, platinum or other precious metals of any kind or description whatsoever from the secondhand manufactured articles; or of buying, acquiring or selling the gold, silver, platinum or other precious metals of any kind or description whatsoever removed from the secondhand manufactured articles.

(b) Every person licensed under this section shall keep a permanent book, in which shall be legibly written in ink in English at the time of the transaction an accurate account of each business transaction. The accurate account of each business transaction shall include the following information:

(1) A description of the article purchased, acquired or sold.

(2) The precious metal removed from each article.

(3) The name, address and date of birth of the seller of the article or the person for whom service of removal of precious metal is performed.

Such book shall at all times be open to the inspection of the Chief of Police or any police officer of the City.

(c) Every person licensed under this section shall furnish daily to the Chief of Police, in the manner prescribed by the Chief, a full account of each business transaction. The prescribed manner of reporting shall require at least the following information:

(1) A full and complete list of all such articles bought, acquired or sold by such person and of all precious metals removed;

(2) A full description of such articles bought, acquired or sold and of all articles from which precious metal is removed, together with all marks, numbers, prints, letters and monograms on such articles;

(3) The name, address and date of birth of the seller of the article or the person for whom service of removal of precious metal is performed;

(4) A current photograph in color, in the format prescribed by the Chief of Police, of the seller or the person for whom the service of removal of precious metal is performed; and

(5) A receipt bearing the legible handwritten signature of the seller or the person for whom service of removal of precious metal is performed, acknowledging such sale, acquisition, purchase or service of removal.

The daily reporting form prescribed by the Chief of Police, as required in this subsection, shall be filed by every person licensed under this section within 24 hours after the date of each business transaction. Whenever such business ceases or discontinues doing business for any period of time of more than five consecutive business days, such fact must be reported by such licensed person to the Chief of Police on forms provided by the Chief. If such business resumes doing business, such fact must be reported on the first day of resumption of business to the Chief of Police on forms provided by the Chief.

(d) Every person licensed under this section shall retain in such person's possession, open to the inspection of the Chief of Police or any police officer of the City, all such articles purchased or acquired by such person for at least ten days before disposing of the articles. This holding period shall also apply to gold, silver, platinum or any other precious metal of any kind removed from the secondhand manufactured article as well as the article itself before such licensed person may return or otherwise dispose of the gold, silver, platinum or other precious metal and the secondhand manufactured article.

(e) No person licensed under this section shall purchase any of the articles mentioned in this section from:

(1) A minor;

(2) Any person who is at the time intoxicated;

(3) A habitual drunkard;

(4) A receiver of stolen property; or

(5) Any person the licensee has reason to suspect to be such.

(f) Every person licensed under this section and having employees to transact such person's business of buying, acquiring or selling secondhand manufactured articles composed wholly or in part of gold, silver, platinum or other precious metals of any kind or description whatsoever or of removing the gold, silver, platinum or other precious metals of any kind or description whatsoever from the secondhand manufactured articles or of buying, acquiring or selling the gold, silver, platinum or other precious metals of any kind or description whatsoever removed from the secondhand manufactured articles shall enter into a bond with a corporate surety, made payable to the City in the sum of $5,000.00, conditioned upon the due observance by such employees of the terms and requirements of this section. Such licensed person shall report to and keep current with the Chief of Police the identity of all employees transacting such business on behalf of such licensed person.

(g) It shall be unlawful for any person licensed under this section and any employee of such licensed person to violate any subsection of this section. A violation of any subsection of this section shall be punishable as a misdemeanor. Upon the second conviction of any licensed person or of any employee of such licensed person, the license and permit to engage in such business shall be revoked, and such person shall be barred from holding such license and permit for one full year from the date that the second conviction becomes final. The punishment in this subsection shall be in addition to any other punishment provided under this article.

(h) No license shall be issued under this section unless and until the applicant shall have obtained a permit therefor from the Chief of Police, issued in accordance with Section 26-875.

(Code 1993, § 27-405; Code 2004, § 98-737; Code 2015, § 26-965)

State law reference—Limitation on tax of retailers, Code of Virginia, § 58.1-3706; minimum standards for dealers in precious metals, Code of Virginia, § 54.1-4100 et seq.

Sec. 26-966. Merchants—Itinerant.

(a) Every itinerant merchant, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license tax equal to $500.00.

(b) The goods, wares and merchandise received from bankruptcy sales, trustee sales, railroad wrecks, fire sales, slaughter sales or sales of like character or designation and stock received from expositions and fairs shall not be included in those subject to the itinerant merchant license tax.

(c) A license shall not be required for nonprofit organizations sponsoring a show or sale where all proceeds go to such nonprofit organization.

(d) Upon applying for a license as an itinerant merchant in the City, the applicant shall provide the Chief of Police the following:

(1) The street and house number of the place where the applicant proposes to conduct business;

(2) The goods, wares and merchandise to be sold or offered for sale at such place, in detail; and

(3) If the applicant has been previously engaged in a like or similar business within the preceding 12 months.

(e) No itinerant merchant shall sell, between April 1 and September 30, both inclusive, between the hours of 7:00 p.m. and 8:00 a.m. of the following morning, nor between October 1 and March 31, both inclusive, between the hours of 6:00 p.m. and 8:00 a.m. of the following morning, any jewelry, diamond or other precious stone, watch, clock, goldware or silverware, gold or silver plated ware, rug, curtain, carpet, tapestry, statuary, porcelain, chinaware, picture, painting, bric-a-brac or article of virtu.

(f) Every itinerant merchant selling or offering for sale goods, wares and merchandise shall, in describing the goods, wares and merchandise, be truthful with respect to the kind, quality and description of the goods, wares and merchandise which, for the purpose thereof, shall be considered as warranties. Any breach of the warranties shall be sufficient to vitiate such sale. The person making such false representation shall be punished as prescribed for the violation of this article.

(g) Nothing in this section shall be construed to require the payment of a license tax for the sale of goods, wares and merchandise by an assignee, trustee, executor, fiduciary, officer in bankruptcy, or other officer appointed by any court of this State or of the United States.

(h) Notwithstanding any other subsection in this section, if sales are conducted at an event by two or more

itinerant merchants coordinated or promoted by one person or agency, only one itinerant merchant's license shall be required. The license shall be issued to the coordinator or promoter of the event.

(Code 1993, § 27-406; Code 2004, § 98-738; Code 2015, § 26-966)

State law reference—Limitation on license tax on itinerant merchants, Code of Virginia, § 58.1-3717.

Sec. 26-967. Merchants—Retail.

(a) Every person engaged in the business of a retail merchant, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.20 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) A manufacturer who sells at retail only and not for resale the goods, wares and merchandise manufactured by such manufacturer shall obtain a license as a retail merchant.

(c) Every cooperative association, society, company or exchange and every nonprofit, cooperative association, with or without capital stock, created or operating under Code of Virginia, Title 13.1, Ch. 3 (Code of Virginia, § 13.1-301 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this State and brought under Code of Virginia, Title 13.1, Ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation is organized or brought under Code of Virginia, Title 13.1, Ch. 3 (Code of Virginia, § 13.1-301 et seq.) prior or subsequent to the effective date of the ordinance from which this section is derived and whether chartered under the laws of this State or otherwise chartered and doing business in this State, and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the City. Every such association, society, company, exchange or corporation which sells to others at retail only and not for resale shall be a retail merchant and taxable as such under this section.

(d) Any person who is both a retail merchant and a wholesale merchant is hereby required to obtain both classes of licenses. However, any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under the merchant's retailer's license by paying license taxes under this section as a retailer on both the merchant's retail and wholesale business, but this shall not apply to any retail merchant, the greater part of whose business at the licensed place during the next preceding year was wholesale, nor to a beginner, the greater part of whose business it is estimated will be wholesale for the period covered by the license.

(Code 1993, § 27-407; Code 2004, § 98-739; Code 2015, § 26-967; Ord. No. 2020-007, § 1, 1-27-2020)

State law reference—Limitations on license tax on retail sales, Code of Virginia, § 58.1-3706; limitation on license tax on wholesale merchants, Code of Virginia, § 58.1-3716.

Sec. 26-968. Merchants—Flea markets.

(a) Every person engaged in the business of organizing, promoting or managing a flea market, as defined in Section 26-872, shall pay a license tax in accordance with subsection (c) of this section.

(b) No person participating in a flea market shall be liable for any license taxation on the gross receipts generated at such flea market if the promoter, manager or organizer of the flea market obtains a license and pays the license tax as provided in this section.

(c) The license tax imposed by this section shall be equal to $2.00 per day for each merchant participating in the flea market during such day or any portion of such day. Such license shall be due and payable on the Monday following such day.

(Code 1993, § 27-407.1; Code 2004, § 98-740; Code 2015, § 26-968)

Sec. 26-969. Merchants—Retail consignment.

Every person who is engaged in the business of a retail consignment merchant, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.20 per $100.00 of the gross receipts, as defined in Section 26-872, as provided in Section 26-871.

(Code 1993, § 27-408; Code 2004, § 98-741; Code 2015, § 26-969)

State law reference—Limitations on license tax on retail sales, Code of Virginia, § 58.1-3706.

Sec. 26-970. Merchants—Retail vending.

Every person who is engaged in the business of retail vending, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.20 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-409; Code 2004, § 98-742; Code 2015, § 26-970)

State law reference—Limitations on license tax on retail sales, Code of Virginia, § 58.1-3706.

Sec. 26-971. Merchants—Direct sellers, retail and wholesale.

Every person who engages in the business of a direct seller, as defined in Section 26-872, and whose total sales exceed $5,000.00 shall obtain a license for the privilege of doing business in the City and pay a license fee of $30.00 or a license tax equal to $0.20 per $100.00 of the retail sales, or $0.22 per $100.00 of the wholesale sales, whichever is applicable, as provided in Section 26-871.

(Code 1993, § 27-410; Code 2004, § 98-743; Code 2015, § 26-971)

State law reference—Limitations on license tax on direct sellers, Code of Virginia, § 58.1-3719.1; limitations on license tax on wholesale merchants, Code of Virginia, § 58.1-3716.

Sec. 26-972. Merchants—Wholesale.

(a) Every person engaged in the business of a wholesale merchant, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.22 per $100.00 of the purchases made during the preceding calendar year, as provided in Section 26-871.

(b) The term "purchases," as used in this section, shall be construed to include all goods, wares and merchandise received or offered for sale at each definite place of business of every wholesale merchant and shall not be construed to exclude any goods, wares and merchandise otherwise coming within the meaning of the term, including such goods, wares and merchandise manufactured by a wholesale merchant and sold or offered for sale as merchandise.

(c) A manufacturer who engages in the business of a wholesale merchant, as defined in Section 26-872, at a definite place or store, other than the place of manufacture, shall be required to obtain a license as a wholesale merchant and pay a license tax as prescribed in subsection (a) of this section. Such license tax is to be measured as follows:

(1) The amount of purchases from others; and

(2) The amount of goods, wares and merchandise manufactured by them, either within or without the City, and sent from the place of manufacture to their store for sale, if any, or such goods, wares and merchandise which the manufacturer ships directly from the place of manufacture to the customer.

(d) For the purposes of this section and in relation to the purchase price of goods, wares and merchandise of a manufacturer as provided in subsection (c) of this section, the term "purchases" shall be defined as follows:

(1) Cost of manufacturing; plus

(2) Factory markup; plus

(3) Overhead.

(e) For every distributing house or place in the City, other than the house or place of manufacture, operated by any person engaged in the business of a merchant in this City for the purpose of distributing goods, wares and merchandise among the merchant's retail stores, a separate license shall be required, and the goods, wares and merchandise distributed through such distributing house or place shall be regarded as purchases for the purpose of measuring the license tax, which tax shall be the same as the license tax imposed by this section on a wholesale merchant.

(f) Any person who is both a wholesale merchant and a retail merchant is required to obtain licenses as provided in this section and Section 26-967.

(g) A wholesale merchant who has been duly licensed by the City may, other than at a definite place of

business, sell and deliver at the same time to licensed dealers or retailers, but not to consumers anywhere in the City, without the payment of any additional license tax of any kind for such privilege to the City, unless otherwise provided by law.

(h) In imposing wholesale merchant's license taxes measured by purchases, there shall be included alcoholic beverages in the basis for measuring such license taxes the same as if the alcoholic beverages were nonalcoholic, and no alcoholic beverage license levied under Section 26-935 or under this section shall be construed as exempting any licensee from any wholesale merchant's license taxes, and such wholesale merchant's license taxes shall be in addition to the alcoholic beverage license taxes.

(i) In imposing retail merchant's license taxes measured by sales and restaurant license taxes measured by sales, there shall be included alcoholic beverages in the basis for measuring such license taxes the same as if the alcoholic beverages were nonalcoholic, and no alcoholic beverage license levied under Sections 26-935 and 26-937 or under this section shall be construed as exempting any licensee from any retail merchant's or restaurant license tax. Such retail merchant's and restaurant license taxes shall be in addition to the alcoholic beverage license taxes.

(j) Notwithstanding anything contained in this section, every person engaged in the business of packaging and sale of sterile medical supplies at wholesale shall pay a license fee of $30.00 or a license tax equal to $0.05 per $100.00 of the gross purchases, as defined in subsection (b) of this section, as provided in Section 26-871.

(Code 1993, § 27-411; Code 2004, § 98-744; Code 2015, § 26-972)

State law reference—Limitations on license tax on wholesale merchants, Code of Virginia, § 58.1-3716.

Sec. 26-973. Merchants—Wholesale consignment.

Every person who is engaged in the business of a wholesale consignment merchant, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.20 per $100.00 of the gross receipts, as defined in Section 26-872, and as provided in Section 26-871.

(Code 1993, § 27-412; Code 2004, § 98-745; Code 2015, § 26-973)

State law reference—Limitations on license tax on wholesale merchants, Code of Virginia, § 58.1-3716.

Sec. 26-974. Merchants—Wholesale electric turbine manufacturers.

Every person engaged in the business of the manufacture of electric turbines who sells at a definite place or store, other than the place of manufacture, to institutional, commercial or industrial users shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.02 per $100.00 of purchases made by such person throughout the then-next-preceding license year and as provided in Section 26-871.

(Code 1993, § 27-413; Code 2004, § 98-746; Code 2015, § 26-974)

State law reference—Limitations on license tax on wholesale merchants, Code of Virginia, § 58.1-3716.

Sec. 26-975. Miscellaneous services.

(a) Every person engaged in one or more of the following businesses shall pay the flat license tax for the respective business, as follows:

(1) Canvassers, other than those working on a salary or wage basis as employees of persons duly licensed under this article, $75.00.

(2) A solicitor of orders for books, magazines or periodicals, $75.00.

(b) No license shall be issued to a solicitor of orders for books, magazines or periodicals without a permit from the Chief of Police under Section 26-875.

(Code 1993, § 27-414; Code 2004, § 98-747; Code 2015, § 26-975)

Sec. 26-976. Motor vehicles—Payment of personal property taxes.

No motor vehicle, trailer, or semitrailer shall be licensed unless evidence of payment of any local personal property taxes and license fees required is produced (i.e., satisfactory evidence submitted that all personal property

taxes assessed upon and payable for the motor vehicle, trailer or semitrailer to be licensed have been paid) and, further, that the applicant provides satisfactory evidence that any delinquent motor vehicle, trailer or semitrailer personal property taxes owing and which have been properly assessed or are assessable against the applicant by the City have been paid.

(Code 1993, § 27-415; Code 2004, § 98-748; Code 2015, § 26-976; Ord. No. 2005-224-219, § 1, 10-24-2005)

State law reference—Motor vehicle tax, Code of Virginia, § 46.2-750 et seq.

Sec. 26-977. Motor vehicles—Vehicle license fees.

(a) Every automobile designed and used in the transportation of passengers operated on the City streets in the business or for the private use or benefit of the owner thereof, the weight of which is 4,000 pounds or less, which weight shall be determined in the same manner as provided in State law for assessing the annual registration fee for such vehicle, shall be subject to a vehicle license fee of $40.74.

(b) Every automobile designed and used in the transportation of passengers operated on the City streets in the business or for the private use or benefit of the owner thereof, the weight of which is in excess of 4,000 pounds, which weight shall be determined in the same manner as provided in State law for assessing the annual registration fee for such vehicle, shall be subject to a vehicle license fee of $45.74.

(c) Nothing in this section shall be construed to require the payment of a license fee on automobiles exclusively employed in transporting fuel, provisions, manure or other things to be used only at the owner's farm or dwelling; on motor vehicles, trailers, or semitrailers that are exempt from motor vehicle license taxes and fees pursuant to Code of Virginia, § 46.2-755; or by persons who do not actually reside in the City and who do not use their automobiles in the City in the conduct of their business, occupation or profession. The term "reside," as used in this subsection, shall be construed to mean "to have a place of abode in the City," irrespective of the intention of any person to return to some other residence outside of the City at some future time.

(d) Effective January 1, 2006, the vehicle license fee period shall be on a calendar year basis. This change is applicable for any vehicle identified in Sections 26-885 through 26-889 and Sections 26-976 through 26-979. For each vehicle registered with the Virginia Department of Motor Vehicles on or before December 31, 2005, and on which the City has received the payment of the City license fee for the period ending April 30, 2006, the 2006 license fee will be adjusted effective January 1, 2006, to properly reflect payment of the license fee for the period May 1, 2005 through April 30, 2006. Vehicles that were garaged or parked in the City at any time from January 1 through June 30 of each calendar year shall be billed for the full amount of the appropriate vehicle license fee. Any vehicles garaged or parked in the City at any time after June 30 of each calendar year shall be billed for one-half of the appropriate vehicle license fee.

(Code 1993, § 27-416; Code 2004, § 98-749; Code 2015, § 26-977; Ord. No. 2005-224-219, § 1, 10-24-2005; Ord. No. 2005-340-282, § 1, 12-12-2005; Ord. No. 2016-055, § 1, 5-13-2016; Ord. No. 2017-097, § 1, 5-22-2017; Ord. No. 2018-143, § 1, 5-14-2018)

State law reference—Authority of City to levy and assess taxes and charge license fees for vehicles, Code of Virginia, §§ 46.2-752, 46.2-755; State fees, Code of Virginia, § 46.2-694.

Sec. 26-978. Motor vehicles—Motorcycles.

(a) Every person operating a motorcycle or causing a motorcycle to be operated on the City streets in the business or for the private use or benefit of the owner thereof shall pay a vehicle license fee for each motorcycle of $28.74.

(b) Nothing in this section shall be construed to require the payment of a vehicle license fee on a motorcycle exclusively employed in transporting fuel, provisions or other things to be used only at the owner's farm or dwelling; nor to a motorcycle operated and owned by a person who does not actually reside in the City and who does not operate the motorcycle in the City in the conduct of such person's business, occupation or profession.

(Code 1993, § 27-417; Code 2004, § 98-750; Code 2015, § 26-978; Ord. No. 2005-224-219, § 1, 10-24-2005; Ord. No. 2016-055, § 1, 5-13-2016; Ord. No. 2018-143, § 1, 5-14-2018)

State law reference—Authority of City to levy and assess taxes and charge license fees for vehicles, Code of Virginia, §§ 46.2-752, 46.2-755; State fees, Code of Virginia, § 46.2-694.

Sec. 26-979. Motor vehicles—Trucks, trailers, etc.

(a) As used in this section, the term "gross weight" means the aggregate of a vehicle or combination of vehicles and its load.

(b) Except as provided in Section 26-977 for motor vehicles, trailers, or semitrailers that are exempt from motor vehicle license taxes and fees pursuant to Code of Virginia, § 46.2-755, every automobile, truck, trailer, semitrailer or autowagon, not designed and used for the transportation of passengers, operated on the City streets shall be licensed, and the vehicle license fee therefor shall be determined by the gross weight of the vehicle or combination of vehicles of which it is a part when loaded to the maximum capacity for which it is registered. For each 1,000 pounds of gross weight or major fraction thereof for which any such vehicle is taxable, there shall be paid to the City for the license a vehicle license fee as follows:

Gross Weight Groups (pounds)	*Tax Per 1,000 Pounds of Gross Weight*
10,000 and less	$2.40
10,001—11,000	$2.60
11,001—12,000	$2.80
12,001—13,000	$3.00
13,001—14,000	$3.20
14,001—15,000	$3.40
15,001—16,000	$3.60
16,001—17,000	$4.00
17,001—18,000	$4.40
18,001—19,000	$4.80
19,001—20,000	$5.20
20,001—21,000	$5.60
21,001—22,000	$6.00
22,001—23,000	$6.40
23,001—24,000	$6.80
24,001—25,000	$6.90
25,001—26,000	$6.95
26,001—27,000	$7.00
27,001—28,000	$7.05
28,001—29,000	$7.10
29,001—35,000	$7.20
35,001 and up (flat rate)	$250.00

(c) For a combination of a tractor-truck and a trailer or semitrailer, each vehicle constituting a part of such combination shall be licensed as a separate vehicle. However, for the purpose of determining the gross weight group into which any such vehicle falls pursuant to subsection (b) of this section, the combination of vehicles of which such vehicle constitutes a part shall be considered a unit, and the aggregate gross weight of the entire combination shall determine such gross weight group. The vehicle license fee for a tractor-truck shall be $250.00 maximum. The vehicle license fee to be paid on account of any trailer or semitrailer which constitutes a part of any such combination

of vehicles shall be $24.00.

(d) It shall be unlawful for any person to operate or to permit the operation of any motor vehicle, trailer or semitrailer for which the vehicle license fee prescribed by subsection (b) of this section on any City street under any of the following circumstances:

(1) Without first having paid the vehicle license fee prescribed;

(2) Without having painted on each side thereof the empty weight of such vehicle and the gross weight on the basis of which it is subject to be licensed; or

(3) If, at the time of any such operation, the gross weight of the vehicle or of the combination of vehicles of which it is a part is in excess of the gross weight on the basis of which it is taxable.

The license inspector or any deputy, having reason to believe that the gross weight of any motor vehicle, trailer or semitrailer being operated on any City street exceeds that on the basis of which such vehicle is registered, is authorized to weigh the motor vehicle, trailer or semitrailer by such means as the inspector may prescribe, and the operator or other person in possession of such vehicle shall permit such weighing whenever requested by such officer. Every person who violates any provision of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $5.00 nor more than $500.00 or by confinement in jail for not more than 60 days, or by both such fine and imprisonment.

(e) The City vehicle license fee to be paid to the City by the owner of a one- or two-wheeled trailer with a body length of not more than nine feet and a width not greater than the width of the motor vehicle to which it is attached at any time of operation, to be attached to the owner's own motor vehicle and used only for carrying property belonging to the owner of such trailer, not to exceed 1,000 pounds at any one time, shall be $6.50. Every trailer or semitrailer designed for use as living quarters for human beings shall be subject to a flat annual vehicle license fee of $6.50. No such trailer shall be operated, propelled or drawn over the City streets unless and until such vehicle license fee is paid, provided that this requirement does not apply to nonresidents if such trailer is properly licensed in such nonresident's home state.

(f) The City vehicle license fee to be paid by the owner of any motor vehicle, trailer or semitrailer, upon which well drilling machinery is attached and which is permanently used solely for transporting such machinery, shall be $6.50.

(Code 1993, § 27-418; Code 2004, § 98-751; Code 2015, § 26-979; Ord. No. 2005-224-219, § 1, 10-24-2005; Ord. No. 2017-097, § 1, 5-22-2017)

State law reference—Authority of City to levy and assess taxes and charge license fees for vehicles, Code of Virginia, §§ 46.2-752, 46.2-755; State fees, Code of Virginia, § 46.2-697.

Sec. 26-980. Motor vehicles—Used car dealers.

(a) Every motor vehicle dealer engaged in the business of selling or offering for sale used motor vehicles taken in trade in the sale of new vehicles at a place of business other than the place of business where new motor vehicles are sold or offered for sale shall pay a license fee of $300.00 and a license tax equal to $0.36 per $100.00 of the gross receipts of the business in excess of $100,000.00.

(b) Every motor vehicle dealer engaged in the business of selling or offering for sale used or secondhand motor vehicles to others at retail only and not for resale, exclusively, and does not engage in the business of selling or offering for sale new motor vehicles shall pay a license fee of $300.00 and a license tax equal to $0.36 per $100.00 of the gross receipts of the business in excess of $100,000.00.

(c) Every motor vehicle dealer engaged in the business of selling or offering for sale new and used motor vehicles at the same place of business, whether taken in trade or purchased for resale, shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(d) When used motor vehicles are taken by dealers in trade as a part of the sale price of new or used vehicles, the sale price of such new or used vehicles, less the allowance made for such used vehicles, shall be considered as sales in computing gross receipts. When such used or secondhand vehicles are sold, the price received therefor shall be considered as sales in computing gross receipts.

(e) Licenses issued under this section and payment of the license taxes prescribed therefor shall not be construed to authorize the operation of motor vehicles upon the City streets, except for demonstration purposes only.

(Code 1993, § 27-419; Code 2004, § 98-752; Code 2015, § 26-980)

State law reference—Licensing of motor vehicle dealers, Code of Virginia, § 46.2-1508 et seq.

Sec. 26-981. Motor vehicles—For-hire and transportation of passengers.

(a) Every person engaged in the business of furnishing a vehicle for public hire with a chauffeur for operation on the City streets shall pay a license tax as follows:

(1) For each such vehicle up to and including three: $75.00.

(2) For each such vehicle over three, if of a seating capacity of four persons or less, in addition to the chauffeur: $30.00.

(3) For each such vehicle over three, if of a seating capacity of five but not more than eight persons, in addition to the chauffeur: $45.00.

(4) For each such vehicle over three, if of a seating capacity of nine or more persons, in addition to the chauffeur, except a sightseeing motor vehicle: $75.00.

(5) For passenger motor vehicles having a seating capacity of nine or more persons, in addition to the chauffeur, operated on the City streets for sightseeing purposes: $150.00.

(b) Every passenger motor vehicle operated on the City streets by taking on and letting off passengers in the same general manner as is done by street railways, for each such vehicle, shall pay a license tax as follows:

(1) If of a seating capacity of five persons or less, including the chauffeur or driver: $75.00.

(2) If from six to ten persons, inclusive, including the chauffeur or driver: $300.00.

(3) If from 11 to 16 persons, inclusive, including the chauffeur or driver: $525.00.

(4) If from 17 to 25 persons, inclusive, including the chauffeur or driver: $900.00.

(5) If for more than 25 persons, including the chauffeur or driver: $1,050.00.

(c) The license tax imposed by subsection (a) of this section shall not be construed to authorize the conduct of the business of hiring simply a seat in such vehicle, and the license tax imposed by subsection (b) of this section shall not be construed to authorize the conduct of the business of hiring such vehicles to one or more persons for their exclusive use and transportation to points within or without the City.

(d) The license taxes levied under this section shall not be in lieu of any other license tax levied under any other section, and the license taxes levied under Section 26-977 shall be levied and paid in addition to the taxes levied under this section.

(e) Every person engaged in the business of furnishing ambulance service, preparing bodies for burial, an embalmer, conducting funerals, or an undertaker and duly licensed as such under Section 26-989 shall be exempt from a license tax under this section with respect to every automobile that is used solely for the conduct of the business of the taxpayer licensed under Section 26-989.

(Code 1993, § 27-420; Code 2004, § 98-753; Code 2015, § 26-981)

Sec. 26-982. Motor vehicles—U-drive-it.

(a) Every person engaged in the business of furnishing for public hire without a chauffeur motor vehicles to be operated upon the City streets shall pay a license tax as follows:

(1) For one or more of such vehicles, not exceeding ten: $450.00.

(2) For each such vehicle in excess of ten: $30.00.

(b) The license taxes levied under this section shall not be in lieu of any other license tax levied under any other section, and the license taxes levied under Sections 26-977, 26-979 and 26-981, as the case may be, shall be levied and paid in addition to the taxes levied under this section.

(Code 1993, § 27-421; Code 2004, § 98-754; Code 2015, § 26-982)

Sec. 26-983. Pawnbrokers and pawnshops.

(a) Every natural person lending or advancing money or other things for profit on the pledge and possession of tangible personal property or other valuable things, other than securities or written or printed evidences of indebtedness or title, or dealing in the purchasing of personal property or other valuable thing on the condition of selling the property or other thing back to the seller at a stipulated price shall pay a license tax equal to $750.00 and $0.36 per $100.00 of the gross receipts of the business in excess of $100,000.00.

(b) Not more than 12 places in the City shall be licensed where the business of a pawnbroker, including a pawnbroker's sales store, may be conducted, and no license shall be granted to conduct a pawnshop or pawnbroker's sales store in the City, except to a natural person who is a qualified voter of the Commonwealth. No such license shall be granted to any such voter except upon a certificate of the Chief of Police and of the Circuit Court of the City or a judge thereof in vacation, which shall explicitly state whether the natural person applying therefor is a proper person to conduct such business and whether the place where the business is proposed to be conducted is a proper and suitable place and whether such applicant has theretofore complied with the laws governing such business, so far as the records of the Department of Police and of the Circuit Court show, if the applicant has theretofore engaged in such business. No license shall be granted to a natural person convicted of a felony or a crime involving moral turpitude within the last ten years. Prior to the issuance of a license, the applicant shall furnish the applicant's date of birth and a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth. No license shall be granted to any natural person to operate or conduct more than two pawnshops or pawnbroker's sales stores in the City, provided that this shall not apply to any natural person who owned and was licensed to operate or conduct more than one pawnshop or pawnbroker's sales store in the City on January 1, 1948, but no license shall be granted after such date to any such person to operate or conduct any additional pawnshop or pawnbroker's sales store in excess of the number of pawnshops or pawnbroker's sales stores operated or conducted by any such person on January 1, 1948. If a properly licensed pawnbroker sells the pawnbroker's business, the Circuit Court of the City shall authorize the City to issue to the purchaser a new license for the same location if the purchaser has not been convicted of a felony or a crime involving moral turpitude in the last ten years. Prior to the issuance of the license, the purchaser shall furnish the purchaser's date of birth and any other information as may be required by the City.

(c) Every natural person to whom a license is to be granted under this section shall execute a bond with corporate surety in the penalty of $500.00 payable to the City in a form satisfactory to the City Attorney. The bond shall be conditioned that such person will indemnify and save harmless the City and all other persons from any and all damages to the City and to all other persons and property directly or indirectly resulting from the operation of such pawnshop or pawnbroker's store or in the conduct of such business. The bond shall provide that suit may be brought thereon by the City or by any person entitled to indemnity thereunder and shall contain the further conditions that the licensee will make a daily report to the Chief of Police in the manner prescribed by the Chief and give all information called for by the prescribed manner of reporting and that the licensee will make use of any "call system" that may be installed or maintained by the City. The prescribed manner of reporting shall require at least the following information:

(1) A full and complete list of all such articles bought, together with all marks, numbers, prints, letters and monograms on such articles;

(2) The name, address and date of birth of the seller of any such article;

(3) The seller's legible handwritten signature; and

(4) A current photograph in color of the seller in the format prescribed by the Chief of Police.

(d) Every natural person to whom a license is to be granted under this section shall execute a bond with corporate surety in the minimum amount of $50,000.00 to secure the payment of any judgment recovered against such person as a licensed pawnbroker. The bond shall provide that suit may be brought thereon by any person who recovers a judgment against the pawnbroker for the pawnbroker's misconduct if the execution issued upon such judgment is wholly or partially unsatisfied.

(Code 1993, § 27-423; Code 2004, § 98-756; Code 2015, § 26-983; Ord. No. 2019-156, § 1, 6-24-2019)

Charter reference—Authority to regulate conduct and number of pawnshops, § 2.04(r).

State law reference—Pawnbrokers, Code of Virginia, § 54.1-4000 et seq.

Sec. 26-984. Peddlers—Crabs.

(a) Every person engaged in the business of peddling or hawking crabs upon the City streets, with or without the use of vehicles, shall pay a license tax of $300.00 for the first vehicle and $50.00 for each additional vehicle.

(b) Each vehicle used in the conduct of the business shall be plainly marked with the name and street address of the person conducting the business.

(Code 1993, § 27-424; Code 2004, § 98-757; Code 2015, § 26-984; Ord. No. 2016-056, § 1, 5-13-2016)

Charter reference—Authority to regulate peddlers, § 2.04(r).

State law reference—Limitations on license tax on peddlers, Code of Virginia, § 58.1-3717.

Sec. 26-985. Peddlers—Gasoline and oil.

(a) Every person engaged in the business of peddling gasoline, oil or petroleum products in the City and not maintaining a permanent storage plant in this City shall pay a license tax of $300.00 for each vehicle used in such business. The whole license tax assessed shall be paid in one sum at the time the license is issued, and the tax shall not be prorated or transferred.

(b) Each vehicle used in the conduct of the business shall be plainly marked with the name and street address of the person conducting the business.

(c) This section shall not be construed to permit the operation of vehicles upon the City streets without the payment of the license tax on such vehicles provided elsewhere in this article.

(Code 1993, § 27-425; Code 2004, § 98-758; Code 2015, § 26-985)

State law reference—Limitations on license tax on peddlers, Code of Virginia, § 58.1-3717.

Sec. 26-986. Peddlers—Hawkers and hucksters.

(a) Every person engaged in the business of carrying from place to place any goods, wares or merchandise and peddling, hawking, selling offering to sell or to barter the goods, wares or merchandise, with or without the use of vehicles, shall be deemed to be a peddler, hawker or huckster. Every person licensed under this section may peddle, hawk, sell or offer to sell or barter, with or without the use of vehicles, any personal property a merchant may sell, as provided elsewhere in this article, or such person may exchange the personal property for other articles. This section shall not apply to a peddler at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of the City one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs in the City without procuring a peddler's license.

(b) Every peddler, hawker and huckster engaged in the business of carrying from place to place any goods, wares or merchandise, except crabs, gasoline or oil, ice, wood, meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature, and selling, offering to sell or to barter the goods, wares or merchandise and every vendor operating from one or more assigned specific locations as provided in Section 6-482 shall pay a license tax of $300.00 when such person travels on foot or does business at one or more specific locations. When vehicles are used, every such person shall pay a license tax equal to $300.00 for the first vehicle and $50.00 for each additional vehicle used. A vendor, as defined in Section 6-453, shall pay an additional fee of $30.00 for each and every additional specific location assigned to such vendor. The whole license tax assessed in this subsection shall be paid in one sum at the time the license is issued, and the tax shall not be prorated or transferred.

(c) Every peddler, hawker, and huckster, whether a vehicle is used or not, engaged in the business of carrying from place to place meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature, not grown or produced by the peddler, and selling, offering to sell or to barter the product and every vendor, as defined in Section 6-453, doing business at one or more specific locations shall pay a license tax equal to $300.00. If more than one vehicle is used or if more than one specific location is assigned, such peddler

shall pay a license tax equal to $300.00 and $50.00 additional for each vehicle or specific location in excess of one so used. The whole license tax assessed by this subsection shall be paid in one sum at the time the license is issued, and the tax shall not be prorated or transferred.

(d) The Collector shall deliver to every person, other than a vendor, as defined in Section 6-453, paying the license tax prescribed by subsection (c) of this section who conducts business thereunder without the use of vehicles three buttons, and not more than three persons shall peddle, hawk, sell or offer to sell any of the goods, wares, merchandise or manufactured products upon the City streets under any one license issued thereunder; provided, however, vendors, as defined in Section 6-453, shall be subject to all terms and conditions set out in Chapter 6, Article X.

(e) Every peddler, hawker and huckster engaged in the business of carrying from place to place family supplies of a perishable nature not grown or produced by such person and groceries generally, including such articles as are customarily sold in grocery stores, other than alcoholic beverages, and selling, offering to sell or barter the supplies or groceries shall pay a license tax as set forth in this section for each vehicle so used.

(f) This section shall not be construed to permit the operation of vehicles upon the City streets without the payment of the license tax on such vehicles as provided elsewhere in this article.

(Code 1993, § 27-426; Code 2004, § 98-759; Code 2015, § 26-986; Ord. No. 2016-056, § 1, 5-13-2016)

State law reference—Limitations on license tax on peddlers, Code of Virginia, § 58.1-3717.

Sec. 26-987. Peddlers—Ice, wood and coal.

(a) Every person who shall carry or cause to be carried from place to place ice, wood or coal, not manufactured or produced by such person, and sells, offers to sell or to barter the ice, wood or coal, whether employed by a dealer, manufacturer or producer of such products or not, shall pay a license tax of $60.00. When more than one vehicle is used, there shall be paid an additional license tax of $60.00 for each vehicle more than one so used. The whole license tax assessed shall be paid in one sum at the time the license is issued, and the tax shall not be prorated or transferred.

(b) The Collector shall deliver to every person paying the license tax prescribed by this section three buttons, and not more than three persons shall peddle, hawk or sell or offer to sell ice, wood or coal upon the City streets under any one license issued under this section.

(c) This section shall not be construed to permit the operation of vehicles upon the City streets without the payment of the license tax on such vehicles as provided elsewhere in this article.

(d) Each vehicle used in the conduct of the business licensed by this section shall be plainly marked with the name, street address and post office address of the person conducting the business.

(Code 1993, § 27-427; Code 2004, § 98-760; Code 2015, § 26-987)

State law reference—Limitations on license tax on peddlers, Code of Virginia, § 58.1-3717.

Sec. 26-988. Peddlers—Selling or offering to sell to licensed dealers or retailers.

(a) Every person, other than a distributor or vendor of motor vehicle fuels and petroleum products, a farmer, a dealer in forest products, a producer or manufacturer, who or which shall call and deliver at the same time, or offer to sell in the City, other than at a definite place of business, goods, wares, manufactured products or merchandise to licensed dealers or retailers shall pay a license tax of $500.00 for each vehicle so used in the conduct of such business. The whole of the license tax shall be paid in one sum at the time the license is issued and shall not be prorated or transferred.

(b) Every vehicle used in the business licensed by this section shall have conspicuously displayed thereon the name of the person using the vehicle, together with the person's post office address, and the license provided for in this section shall at all times be conspicuously displayed on each vehicle.

(Code 1993, § 27-428; Code 2004, § 98-761; Code 2015, § 26-988)

Sec. 26-989. Personal services generally.

(a) For the purposes of this section, the term "personal service" shall include personal service, repair service

and business service, as defined in Section 26-872, and all other businesses and occupations not specifically listed or exempted in this chapter.

(b) Every person engaged in one or more personal service businesses shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(c) Every person engaged in the business of preparing bodies for burial, an embalmer, conducting funerals, or an undertaker and duly licensed as such under this section shall be allowed to deduct from the gross receipts of this business all payments made on account of customers or clients for burial lots, for doctors, hospital or nurses' services, for newspaper notices, for transportation expenses or other like expenses, provided that no such item shall be deducted with respect to which the taxpayer has received or become entitled to receive any commission, fee, discount or profit whatsoever.

(d) Personal services generally include, but are not limited to, the following types of businesses:

(1) Abattoirs.

(2) Advertisement placement service.

(3) Alarms: installing, selling or leasing.

(4) Ambulance service.

(5) Analytical laboratory.

(6) Artist or artisan.

(7) Assayer.

(8) Auctioneer.

(9) Barbershop.

(10) Beauty parlor or hair styling salon.

(11) Blue printer.

(12) Boilermaking.

(13) Bookkeeper.

(14) Bowling center.

(15) Building cleaning services (exterior or interior).

(16) Business or statistical research services.

(17) Cable television businesses.

(18) Caterer.

(19) Chemist.

(20) Chimney services.

(21) Clothing, hats, carpet or rug services: cleaning, dyeing, pressing, repairing, sponging or spotting.

(22) Collection business.

(23) Commercial advertising on taxicabs and other passenger-carrying for-hire vehicles, except buses operated on the City streets.

(24) Commercial sign painter.

(25) Computer systems designer, programmer or manager.

(26) Construction manager.

(27) Credit bureau.

(28) Custom making drapes or window curtains.

(29) Data processing services.
(30) Day care center or nursery.
(31) Detective services.
(32) Diaper services.
(33) Duplicating, photostating or copying services.
(34) Electrologist.
(35) Engineering laboratory.
(36) Frozen food locker plant.
(37) Funeral, embalming and undertaking services.
(38) Furnace cleaning.
(39) Gardener.
(40) Graphics service.
(41) Health club.
(42) Home improvement services.
(43) Hotel.
(44) House cleaning services.
(45) Installation or repair of equipment on automobiles, trucks or other motorized vehicles or equipment.
(46) Interior decorator or designer.
(47) Investigative services.
(48) Janitorial services.
(49) Kennel or small animal hospital.
(50) Landscape architect.
(51) Laundry.
(52) Lawn maintenance.
(53) Locksmith or lock repair services.
(54) Machine shops.
(55) Manicurist.
(56) Manufacturer's agent.
(57) Mercantile agent.
(58) Merchandise broker.
(59) Messenger services.
(60) Motion picture producer.
(61) Motor vehicle services of any kind.
(62) Nursing or adult homes.
(63) Operating/leasing halls, other than dancehalls.
(64) Optician.
(65) Parking lot.
(66) Permanent or full-time employment service.

(67) Pet grooming.
(68) Photographer.
(69) Photostater.
(70) Picture framing or gilding.
(71) Plating metals or other materials.
(72) Protective agents.
(73) Public relations business.
(74) Public stenographer.
(75) Recording studio.
(76) Recycling businesses.
(77) Refuse collection services.
(78) Renting tangible personal property (not qualified as daily rental business).
(79) Recorder of proceedings in any court, commission or other organization.
(80) Repair service.
(81) Repair shop.
(82) Safety deposit box.
(83) Sales agent or agency (except real estate agent).
(84) Scalp treatment business.
(85) Scientific data services.
(86) Sculptor.
(87) Security services.
(88) Shoe repair services.
(89) Shoeshine business.
(90) Skating rink.
(91) Stevedoring.
(92) Supplying clean linens, coats, aprons or uniforms.
(93) Survey services.
(94) Tax preparer.
(95) Taxidermist.
(96) Telephone message services.
(97) Telephone sanitizing services.
(98) Temporary employment services.
(99) Theater.
(100) Tire retreading or disposal services.
(101) Tour conductor.
(102) Towing services.
(103) Trading stamp business.
(104) Transporting goods or chattels for others and related services.

(105) Travel agent.

(106) Tree pruner.

(107) Typesetting.

(108) Weight control salon, club or service.

(109) Welcoming or greeting services.

(110) Welding services.

(111) Window dresser.

(112) Window or window shade cleaning services.

(113) Written communication services.

(114) Other personal, repair and business services.

(115) All other businesses and occupations not specifically listed or excepted.

(e) Persons engaged in activities which are not listed in subsection (d) of this section but fitting within the scope and intent of the definition of personal, business or repair services in Section 26-872 and those who are not elsewhere provided for in this section nor specifically exempted by law from payment of such license tax shall be subject to a license tax for providing personal services as provided in subsection (a) of this section.

(f) Notwithstanding anything to the contrary in this section, no license shall be required of a child care center, a nursery, a nursing home, an adult home, a foster home, a child placing agency, or a family care home unless a regulatory license is required under the rules of the State Department of Social Services. Failure to obtain a license from the State will not exonerate such person from the liability of payment of license taxes.

(g) No license shall be issued to anyone as the operator of a bowling center, skating rink, motion picture theater, theater, or as one furnishing detective services without a permit from the Chief of Police, as provided in Section 26-875.

(h) The license taxes prescribed in this section shall be in addition to the license taxes prescribed elsewhere in this Code upon slot machines or other vehicles of any kind.

(i) No license shall be issued to a detective without a permit from the Chief of Police under Section 26-875.

(Code 1993, § 27-429; Code 2004, § 98-762)

Sec. 26-990. Photographic finishers.

(a) Every person engaged in the business of developing, printing or otherwise finishing pictures, films or negatives for others for resale only shall pay a license fee of $30.00 or a license tax equal to $0.30 per $100.00 of the gross receipts of such business, as provided in Section 26-871.

(b) Every person engaged in the business of developing, printing or otherwise finishing pictures, films or negatives for sale to others or for use for others only shall pay a license fee of $30.00 or a license tax equal to 0.0036 percent of the gross receipts of such business, as provided in Section 26-871.

(Code 1993, § 27-430; Code 2004, § 98-763; Code 2015, § 26-990)

Sec. 26-991. Professional services—Generally.

(a) For the purposes of this section, the term "professional service" shall include professional service, real estate service, and financial service, as defined in Section 26-872. Every person engaged in a professional service, as defined in Section 26-872, and having an office or place of business in the City shall pay a license fee of $30.00 or a license tax equal to $0.58 per $100.00 of the gross receipts of the business or profession, as provided in Section 26-871.

(b) Professional service businesses include, but are not limited to, the following:

(1) Accountant, certified public or public.

(2) Architect.

(3) Attorney.

(4) Auditing business.

(5) Engineer.

(6) Investment advisor.

(7) Loan companies, note purchasing institutions and mortgage brokers.

(8) Medical professions:

a. Chiropodist.

b. Chiropractor.

c. Dentist.

d. Doctor of medicine.

e. Homeopathist.

f. Naturopathist.

g. Optometrist.

h. Osteopath.

i. Physiotherapist.

j. Psychologist.

k. Surgeon.

l. Veterinarian.

(9) Metallurgist.

(10) Real estate agent.

(11) Real estate management.

(c) Persons engaged in occupations or professions which are not listed in subsection (b) of this section, but fitting within the scope and intent of the definition of the term "professional services" in Section 26-872 and not elsewhere provided for in this section nor specifically exempted by law from payment of such license tax, shall be subject to a license tax as a professional service as provided in subsection (a) of this section.

(d) A permit from the Chief of Police is required under Section 26-875 before a license will be issued to engage in the business of furnishing domestic or clerical help, labor or employment.

(e) If any part of the gross receipts of an optometrist shall be derived from filling a prescription of a physician, such part of the gross receipts shall be deemed to be the gross receipts of an optician under Section 26-989.

(f) Those professional service businesses that are operating as a professional corporation, corporation, limited liability corporation, or partnership, with one or more professionals engaging in the practice of their profession as members of such professional service business, shall obtain the business license prescribed in this section in the name of the professional corporation, corporation, limited liability corporation or partnership.

(g) Every person who is engaged in a professional service, as defined in Section 26-872, and who performs such service as a member of a professional corporation, corporation, limited liability corporation, or partnership and who the Director determines is otherwise ineligible to obtain the license in the name of such business entity must obtain a business license, individually, as provided in subsection (a) of this section.

(h) Every person engaged in the business of an architect, as defined in Section 26-872, shall exclude from the basis of gross receipts the amounts paid by the licensee to another architect or to an engineer who is duly licensed in the City under this section. Every person engaged in the business of an architect shall have paid the license tax levied by this section before a permit for doing the work contracted for is issued.

(Code 1993, § 27-432; Code 2004, § 98-765; Code 2015, § 26-991)

State law reference—Limitation on tax rate on financial, real estate and professional services, Code of Virginia, § 58.1-3706.

Sec. 26-992. Professional services—First and second mortgage companies.

(a) Every person engaged in the business of operating a first and second mortgage company or mortgage banking company having an office or place of business in the City shall pay a license fee of $30.00 or a license tax equal to $0.29 per $100.00 of gross receipts of such business, as provided in Section 26-871.

(b) For the purpose of computing the license tax levied by subsection (a) of this section, the following shall be excluded from the gross receipts of such businesses:

(1) Repayments of loan principal and proceeds from the sale of mortgages to investors;

(2) Interest income, other than from mortgage loans secured by property in the City;

(3) For mortgage loans originated outside of the City, gross origination fees, gross appraisal fees, gross commitment fees and other gross receipts associated with the origination of such loans; and

(4) Gross mortgage interest with respect to loans secured by property outside the City.

(c) Notwithstanding subsection (b) of this section, taxable gross receipts shall include gross fees from loan servicing activities conducted in the City and gains, net of annual losses, from the sale of mortgage loans to investors, in both cases regardless of the origin of the loan.

(Code 1993, § 27-433; Code 2004, § 98-766; Code 2015, § 26-992)

State law reference—Limitation on tax rate on financial, real estate and professional services, Code of Virginia, § 58.1-3706.

Sec. 26-993. Receiving station for laundry, cleaning, pressing, repairing or servicing.

Every person engaged in the business of operating a place for receiving or delivering articles to be laundered, cleaned, pressed, repaired or serviced elsewhere shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871. However, no tax shall be assessable against the gross receipts under this section if the person operating such place is the same person as the person who engages in the business of doing the laundry, cleaning, pressing, repairing or servicing elsewhere and the gross receipts of the business are included in the gross receipts of the business of the one who does the laundry, cleaning, pressing, repairing or servicing for the purpose of a license tax by the City.

(Code 1993, § 27-434; Code 2004, § 98-767; Code 2015, § 26-993)

Sec. 26-994. Restaurants.

(a) Every person engaged in the business of operating a restaurant, as defined in Section 26-872, shall obtain a license for the privilege of doing business in the City and shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) Every license issued under this section authorizes the licensee to sell, offer for sale, cook or otherwise furnish for compensation, at retail only and not for resale, diet, food or refreshments of any kind at the house or place of business of the licensee for consumption therein. Each house or definite place of business is required to obtain a separate license.

(Code 1993, § 27-435; Code 2004, § 98-768; Code 2015, § 26-994)

Cross reference—Food and food establishments, § 6-240 et seq.

Sec. 26-995. Scaffolding.

Every person engaged in the business of furnishing, leasing, renting, erecting or removing any or all kinds of equipment used as scaffolding or its accessories shall pay a license fee of $30.00 or a license tax equal to $0.30 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-436; Code 2004, § 98-769; Code 2015, § 26-995)

Sec. 26-996. Schools.

Every person engaged in the business or profession of teaching music, photography, ceramics, dancing, bridge, cooking, language, mathematics, history or any other academic or technical subject, sewing, stenography,

typewriting, stenotyping, secretarial work, sales or expression, or conducting an academic or business or professional or technical school or a nursery school or kindergarten, or teaching persons to operate motor vehicles shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business or profession, as provided in Section 26-871.

(Code 1993, § 27-437; Code 2004, § 98-770; Code 2015, § 26-996)

Sec. 26-997. Secondhand dealers.

(a) Every person engaged in the business of buying, selling, bartering or exchanging used or secondhand clothing, hats, shoes, any other wearing apparel, electronic equipment, cameras, power tools and computers intended to be resold for use as such shall be deemed a secondhand dealer, and every secondhand dealer shall be duly licensed as a merchant and shall also obtain a permit from the Chief of Police in accordance with Section 26-875. Every permit issued to a secondhand dealer shall authorize such dealer to sell or offer for sale used or secondhand clothing, hats, shoes, any other wearing apparel, electronic equipment, cameras, power tools and computers intended to be resold for use as such to others at retail only and not for resale. A separate permit shall be required for each definite place of business.

(b) Every secondhand dealer selling only goods obtained through donations to or purchased directly from an organization identified by the Internal Revenue Service as a Section 501(c)(3) organization shall be exempt from subsections (f) through (h) of this section.

(c) Every secondhand dealer who purchases secondhand or used merchandise exclusively from legitimate jobbers or wholesalers by invoice shall pay the retail merchant's license tax prescribed by Section 26-967 for the privilege of doing such business in the City. The requirements of Section 26-967 are hereby made a part of this subsection as if set out at length, and the requirements thereof shall apply to each secondhand dealer who shall comply therewith.

(d) Every secondhand dealer who does not purchase secondhand or used merchandise exclusively from legitimate jobbers or wholesalers by invoice shall pay the retail merchant's license tax prescribed by Section 26-967 and shall pay an additional license tax of $75.00 for the privilege of doing such business in the City. The requirements of Section 26-967 are hereby made a part of this subsection as if set out at length, and the requirements thereof apply to each secondhand dealer who shall comply therewith.

(e) No secondhand dealer shall at any time or under any circumstances buy goods, wares or merchandise from a minor.

(f) Every person licensed under this section shall keep a permanent book in which shall be legibly written in ink in English at the time of the transaction the following:

(1) The name of each person from whom such secondhand merchandise is purchased;

(2) The date when the merchandise is purchased and received;

(3) The residence or place of business of the person from whom such secondhand merchandise was purchased; and

(4) A full description of the secondhand merchandise.

(g) Every person licensed under this section shall furnish daily to the Chief of Police, in the manner prescribed by the Chief, a full account of each identifiable item purchased. Identifiable items shall include, but not necessarily be limited to, items with a serial number, any items with a special marking such as an engraved Social Security number, any items identified by brand name or model number, or both, or any one-of-a-kind item. The prescribed manner of reporting shall require at least the following information:

(1) A full and complete list of all such articles bought, together with all marks, numbers, prints, letters and monograms on such articles;

(2) The name, address and date of birth of the seller of any such article;

(3) The seller's legible handwritten signature; and

(4) A current photograph in color of the seller in the format prescribed by the Chief of Police.

(h) Every person licensed under this section shall retain in such person's possession, open to the inspection of the Chief of Police or any police officer of the City, all articles purchased or acquired by such person for at least 15 days before disposing of the articles.

(Code 1993, § 27-438; Code 2004, § 98-771; Code 2015, § 26-997)

Sec. 26-998. Slot machine operators.

Every person engaged in the business of repairing, selling, leasing, renting or otherwise furnishing slot machines to others or placing slot machines with others shall be deemed to be a slot machine operator. Every slot machine operator shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-439; Code 2004, § 98-772; Code 2015, § 26-998)

Sec. 26-999. Soft drinks, mineral and aerated water bottling.

Every person engaged in the business of manufacturing and bottling soft drinks, minerals or aerated water shall pay a license tax to be ascertained in the following manner:

(1) If the total gross receipts of such business during the preceding year did not exceed $200,000.00, such person shall pay the sum of $300.00.

(2) If the total gross receipts of such business were more than $200,000.00 and did not exceed $500,000.00, such person shall pay the sum of $450.00.

(3) If the total gross receipts of such business were more than $500,000.00 and did not exceed $1,000,000.00, such person shall pay the sum of $600.00.

(4) If the total gross receipts of such business were more than $1,000,000.00, such person shall pay the sum of $1,500.00.

(Code 1993, § 27-440; Code 2004, § 98-773; Code 2015, § 26-999)

Sec. 26-1000. Stock and bond brokers.

(a) Every person, other than a National bank or bank or trust company organized under the laws of the State or a duly licensed and practicing attorney at law, who engages in the business of dealing in investment securities or of buying or selling for others, on commission or for other compensation, shares in any company or corporation, bonds, notes or other evidences of debt shall pay a license fee of $30.00 or a license tax equal to $0.58 per $100.00, as provided in Section 26-871, of the gross fees, brokerage and commissions and of the net operating receipts of the business from underwriting commitments, without deduction for any operating or overhead expenses of the licensee and without any deduction from gross receipts on account of a loss in net operating receipts of the business from underwriting commitments.

(b) Gross receipts of a security broker or security dealer for license tax purposes under this article shall not include amounts received by the broker or dealer that arise from the sale or purchase of a security to the extent that such amounts are paid to an independent registered representative as a commission on any sale or purchase of a security. The broker or dealer claiming the exclusion shall identify on the person's license application each independent registered representative to whom the excluded receipts have been paid and, if applicable, the jurisdictions in the Commonwealth to which the independent registered representative is subject to business license taxes.

(Code 1993, § 27-441; Code 2004, § 98-774; Code 2015, § 26-1000)

State law reference—Limitation on tax rate on financial, real estate and professional services, Code of Virginia, § 58.1-3706; limitation on gross receipts of security brokers and dealers, Code of Virginia, § 58.1-3732.5.

Sec. 26-1001. Stock investment advisory or principal underwriter.

(a) Every person engaged within the City in the business of acting as an investment adviser for any investment company registered under the Investment Company Act of 1940, 15 USC 80a-1 et seq., shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of its investment advisory business, as provided in Section 26-871.

(b) Every person engaged within the City in the business of acting as a principal underwriter for an investment company registered under the Investment Company Act of 1940 shall pay a license fee of $30.00 or a license tax, as provided in Section 26-871, equal to $0.36 per $100.00 of the gross sales charges imposed by such principal underwriter on its execution of purchase orders for shares in any investment company or for investment company contractual plans for such shares. In calculating gross sales charges under this subsection, deductions shall be allowed a principal underwriter for concessions retained by securities dealers who have originated any purchase order.

(c) The terms "investment adviser" and "principal underwriter" used in subsection (a) or (b) of this section shall have the meaning given those terms in Section 2(a) of the Investment Company Act of 1940, 15 USC 80a-2(a), and any person claiming to be engaged in any such business shall furnish the City, upon request, such documents as the City may reasonably request concerning the character of the business being conducted.

(d) Every person engaged within the City in the business of rendering investment advice to or acting as principal underwriter for an investment company registered under the Investment Company Act of 1940 shall be subject only to the license taxes set forth in subsections (a) and (b) of this section in lieu of all other license taxes otherwise imposed under any other section of this Code or City ordinances.

(e) Dividend disbursing, dividend reinvestment, transfer of stock, mailing and similar services, when provided by any person who has been issued the license required by this section for engaging in business as investment adviser, as principal underwriter, or as investment adviser and principal underwriter for any investment company registered under the Investment Company Act of 1940 shall be deemed to be rendered in the regular conduct of the business. However, such sums as may be collected by such investment adviser or principal underwriter for such services (dividend disbursing, etc.) shall be excluded in determining the gross proceeds for the purpose of computing the license tax to be paid.

(Code 1993, § 27-442; Code 2004, § 98-775; Code 2015, § 26-1001)

Sec. 26-1002. Stone cutting and setting.

(a) Every person engaged in the business of accepting orders or contracts, on cost-plus basis or otherwise, for cutting or setting building stone, tombstones, monuments or other like work shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) Every person proposing to do work in the City under this section for which a permit must be obtained from any department, bureau or officer of the City shall, upon making application for such permit, exhibit to the official the City license authorizing such licensee to engage in the business for the year in which the permit is applied for and shall furnish to the official who has authority to grant or award the permit a list of subcontractors at the time of applying for the permit. The person shall furnish such list in writing immediately upon awarding the subcontract or contracts, and such person shall not allow the work under any subcontract to proceed until the subcontractor shall have exhibited to such person the subcontractor's City license to do business in the City for the current year. Thereupon, it shall be the duty of the officer granting the permit to record the number of such license and the name of the contractor exhibiting the license, as well as the year for which the license is granted, in a properly bound book kept for that purpose and to index the license in the name of such contractor. It shall be unlawful for any such officer to grant any permit to any person unless and until the license shall be exhibited as required and recorded and indexed as prescribed in this subsection.

(c) The official shall at once furnish a list of all subcontractors to the City license inspector, whose duty it shall be to see that all necessary licenses are secured by such subcontractors.

(Code 1993, § 27-443; Code 2004, § 98-776; Code 2015, § 26-1002)

Sec. 26-1003. Storage warehouses; businesses of icing or precooling.

Every person engaged in the business of operating a warehouse or place for the storage of merchandise, tobacco, furniture or other goods, wares or materials; or a cold storage warehouse; or engaged in the business of icing or precooling shall, for each warehouse or place of storage or place where the person engages in the business of icing or precooling, pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(Code 1993, § 27-444; Code 2004, § 98-777; Code 2015, § 26-1003)

Sec. 26-1004. Telegraph companies.

(a) Every person engaged in the telegraph business, for the privilege of doing business in the City, but not including any business done to or from points without the State and not including any business done for the government of the United States, its officers or agents, shall pay an annual license tax for such privilege of $3,000.00.

(b) Nothing in this section shall be construed to affect, impair or repeal the rights of the City under the ordinances of the City Council requiring telephone or telegraph companies to pay to the City annual compensation for the use of its streets, parks and alleys in the erection of posts or poles therein and the stringing of wires thereon or constructing conduits along or under the streets and alleys and running wires therein.

(Code 1993, § 27-445; Code 2004, § 98-778; Code 2015, § 26-1004)

Sec. 26-1005. Telephone companies.

(a) Every person engaged in the telephone business, for the privilege of doing business in the City, shall pay an annual license tax for such privilege of three percent of the gross receipts from all local telephone service within the City, including, but not limited to, the following:

(1) Wire maintenance plan;

(2) Optional customer package plans;

(3) Sale of telephone equipment; and

(4) Rental of telephone equipment.

Such gross receipts shall be based on the business done exclusively in the City.

(b) Excluded from the basis of the business license tax shall be the gross receipts from the following:

(1) Business done to and from points without the State; and

(2) Any business done for the United States government, its officers or agents.

(c) Nothing in this section shall be construed to affect, impair or repeal the rights of the City under the ordinances of the City Council requiring telephone or telegraph companies to pay to the City annual compensation for the use of its streets, parks, and alleys in the erection of posts or poles therein and the stringing of wires thereon or constructing conduits along or under the streets and alleys and running wires therein.

(Code 1993, § 27-446; Code 2004, § 98-779; Code 2015, § 26-1005)

Sec. 26-1006. Title plant.

(a) Every person, other than attorneys at law duly licensed by the City, engaged in the business of operating or conducting a title plant or filing system for the purpose of aiding in the examination of titles to real estate from which revenue, other than title insurance premiums, is directly or indirectly received from others shall pay a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) No part of an insurance premium shall be included in the gross receipts as a basis for taxation.

(Code 1993, § 27-447; Code 2004, § 98-780; Code 2015, § 26-1006)

Sec. 26-1007. Tourist homes and bed and breakfast lodgings, boardinghouses and lodginghouses.

(a) *Tourist homes and bed and breakfast lodgings.* Every person operating a private house where bedrooms are furnished to tourists for compensation shall be subject to a license fee of $30.00 or a license tax equal to $0.36 per $100.00 on all receipts from such operations, as provided in Section 26-871. If meals are furnished by such a person to persons other than those to whom bedrooms are also furnished for compensation or if meals are furnished to those who are furnished bedrooms and an additional charge is made for such meals, in addition to the above there shall be due a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business from such meals, as provided in Section 26-871, including the additional charges for meals furnished those to whom

bedrooms are also furnished.

(b) *Boardinghouses.* Every person operating a private house where meals are furnished for compensation to casual visitors or to more than three regular table boarders other than members of the family of the operator of the house and where there are not more than three bedrooms also furnished for compensation to persons other than tourists and other than members of the family of the operator of the house shall be subject to a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business from such meals, as provided in Section 26-871, including the additional charges for meals furnished those to whom bedrooms are also furnished.

(c) *Lodginghouses.* Every person operating a private house where bedrooms are furnished to persons other than tourists and other than members of the family of the operator of the house for compensation shall be subject to a license fee of $30.00 or a license tax equal to $0.36 per $100.00 on all receipts from such operations, as provided in Section 26-871. If meals are furnished by such a person to persons other than those to whom bedrooms are also furnished for compensation or if meals are furnished to those who are furnished bedrooms and an additional charge is made for such meals, in addition to the above license tax there shall be due a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business from such meals including the additional charges for meals furnished those to whom bedrooms are also furnished.

(Code 1993, § 27-448; Code 2004, § 98-781; Code 2015, § 26-1007)

Sec. 26-1008. Vehicles; baggage, express, freight, parcel delivery or transfer business.

(a) Every person engaged in the baggage, express, freight, parcel delivery or transfer business using horse-drawn or other vehicles therein shall be subject to a license fee of $30.00 or a license tax equal to $0.36 per $100.00 of the gross receipts of the business, as provided in Section 26-871.

(b) The license tax prescribed in this section shall be in addition to the license taxes prescribed elsewhere upon vehicles of any kind.

(Code 1993, § 27-449; Code 2004, § 98-782; Code 2015, § 26-1008)

Sec. 26-1009. Wood sawers.

Every person, other than a dealer in wood duly licensed by the City, engaged in the business of sawing wood by machines shall pay a license tax of $60.00.

(Code 1993, § 27-450; Code 2004, § 98-783; Code 2015, § 26-1009)

Secs. 26-1010—26-1031. Reserved.

ARTICLE XVI. SPECIAL SERVICE AND ASSESSMENT DISTRICTS*

***State law reference—**Service districts, Code of Virginia, § 15.2-2400 et seq.

DIVISION 1. GENERALLY

Sec. 26-1032. Levy and collection.

All assessments levied under this article shall be added to the general real estate levy for the property and shall be subject to the following sections of this chapter governing the levy and collection of real estate taxes and the penalties applicable thereto: Sections 26-357, 26-358, 26-361 and 26-363.

(Code 1993, § 27-475; Code 2004, § 98-816; Code 2015, § 26-1032)

Sec. 26-1033. Proceeds of special assessments.

All proceeds from special assessments collected pursuant to this article shall be segregated and shall be expended in the district in which raised and used only for the purposes for which collected.

(Code 1993, § 27-476; Code 2004, § 98-817; Code 2015, § 26-1033)

Secs. 26-1034—26-1064. Reserved.

DIVISION 2. DOWNTOWN GENERAL SPECIAL SERVICE AND ASSESSMENT DISTRICT*

***Editor's note—**Section 2 of the enacting ordinance of this division requires that council shall annually review the rates and

boundaries of the district.

Sec. 26-1065. District boundaries.

The Downtown General Special Service and Assessment District shall consist of the real estate described as follows:

Beginning at the intersection of Brook Road and Adams Street; thence northerly along Adams Street to the center of an alley in block N-77; thence easterly in such alley to First Street; thence northerly in First Street to a point on the east line of First Street and being 108.89 feet northerly from the northeast block corner intersection of First and Clay Streets; thence easterly 80.50 feet to a nine-foot alley; thence northerly 54 feet, more or less, to a point; thence easterly 20 feet to a point on a 12-foot alley; thence northerly in the alley 199 feet, more or less, to the northwest corner of parcel 13 of block N-62; thence easterly 116 feet, more or less, to the southwest corner of parcel 10 of block N-62; thence northerly 100 feet to Leigh Street; thence northerly across Leigh Street to a point on the north line of Leigh Street and being the southwest corner of parcel 17 of block N-64; thence northerly 92 feet to a point; thence westerly 25 feet to a point; thence northerly 44 feet, more or less, to an alley; thence westerly on the alley to a point on the north side of the alley and being the southwest corner of parcel 11 of block N-64; thence northerly 60 feet to a point; thence easterly 57 feet to a point being the southwest corner of parcel 10 of block N-64; thence northerly 120 feet, more or less, to Jackson Street; thence easterly along Jackson Street, across Second Street, and to the east side of Third Street and the I-95 off ramp at Jackson Street; thence meandering along the east side of such off ramp, across Fourth Street; on the south line of Duval Street at block N-21, across Fifth Street, along the on ramp to I-95, along the south line of I-95 (Richmond-Petersburg Turnpike) to and along the westerly line of the I-95 off ramp (near the Martin Luther King Bridge) and southerly to Broad Street on the east side of block E-180; thence easterly along Broad Street and crossing 14th, 17th and 18th Streets to the center of a 20-foot alley in block E-161; thence southerly along such alley to Grace Street; thence southwesterly across Grace Street to a point on the south line of Grace Street and being the northeast corner of lot 35 of block E-131; thence southerly 70 feet to a point; thence easterly 66 feet, more or less, to a point; thence southerly 99 feet, more or less, to a point along the southeast corner of parcel 31 of block E-131; thence westerly 66 feet, more or less, to a point; thence southerly 75 feet, more or less, to the corner of a ten-foot alley; thence westerly 23 feet, more or less, to a point; thence southerly 90 feet to the north line of Franklin Street and being 43.40 feet from the northeast intersection of Franklin and 18th Streets; thence southerly to a point on the south line of Franklin Street and being the northeast corner of parcel 39 of block E-132; thence southerly 80 feet to a point; thence 53 feet, more or less, to a point; thence to the following points of succession in block E-132 being: southerly 26.33 feet; easterly 14.76 feet; southerly 34.10 feet; easterly 13.86 feet; southerly 12.60 feet; westerly 1.53 feet; southerly 10.58 feet; easterly 21.98 feet; southerly 73.10 feet; westerly 55 feet, more or less, to a ten-foot alley southerly ten feet along the east end of the alley; westerly along the south alley line 70 feet, more or less, to the northeast corner of parcel 29 of block E-132; southerly 13.75 feet; westerly ten feet, more or less and southerly 68 feet, more or less, to the north line of Main Street; thence southerly from block E-132, across to a point on the south line of Main Street and being 110.11 feet in an easterly direction from the northeast intersection point of Main and 18th Streets; thence southerly 74.67 feet to a point being the southeast corner of parcel 1 of block E-133; thence southerly 109 feet to an alley in block E-133; thence westerly along the alley and across 18th Street to an alley in block E-109; thence westerly along such alley 265.40 feet; thence northwesterly across 17th Street through the center of an alley in block E-90; thence westerly along such alley, crossing under I-95 and across 15th Street; thence westerly through the center of an alley (known as Lombardy Alley) in block E-87 to the northeast corner of parcel 34 of block E-87; thence southerly along the east line of parcel 34 to Cary Street; thence westerly along Cary Street to 14th Street; thence southerly along 14th Street and crossing Dock Street and continuing to the south line of the Chesapeake and Ohio Railway; thence in a westerly direction along the south line of the Chesapeake and Ohio Railway and crossing under the Manchester Bridge and along the north bank of the James River and crossing under the Robert E. Lee Bridge and meandering around to the westerly side of a portion of Chesapeake and Ohio Railway and Kanawha Canal being located on the westerly side of parcel 10 of block W-53; thence meandering in a northerly direction along the railway and between the Kanawha Canal and Riverside Park Road to Belvidere Street; thence in a northerly direction along Belvidere Street and crossing Broad Street to an alley on the east line of Belvidere Street in block N-240; thence in an easterly direction through the center of alleys in blocks N-240, N-206, N-

180, N-140 and N-119 and crossing Henry, Monroe, Madison and Jefferson Streets and to Adams Street to the point of beginning. See DPW Drawing No. P-22075 dated March 2, 1990, entitled "Downtown Special Assessment District, General District."

(Code 1993, § 27-481; Code 2004, § 98-841; Code 2015, § 26-1065)

Sec. 26-1066. Imposition of special assessments.

There shall be levied and collected for each year on all real estate subject to real estate taxation located within the boundary described in Section 26-1065 a special assessment of $0.05 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2001, and for each year thereafter until otherwise provided by law or ordinance.

(Code 1993, § 27-482; Code 2004, § 98-842; Code 2015, § 26-1066)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1067. Purpose of assessment.

The assessments collected for the Downtown General Special Service and Assessment District shall be used only for the following purposes:

(1) Economic development services;

(2) Promotion of business and retail development services;

(3) Beautification and landscaping;

(4) Public parking;

(5) Sponsorship and promotion of recreational and cultural activities; and

(6) Such other services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403 and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Downtown General Special Service and Assessment District.

(Code 1993, § 27-483; Code 2004, § 98-843; Code 2015, § 26-1067)

Secs. 26-1068—26-1087. Reserved.

DIVISION 3. DOWNTOWN CONSUMER SPECIAL SERVICE AND ASSESSMENT DISTRICTS*

***Editor's note—**Section 2 of the enacting ordinance of this division requires that Council shall annually review the rates and boundaries of the district.

Sec. 26-1088. District boundaries.

The Downtown Consumer Special Service and Assessment Districts shall consist of the two areas of real estate described as follows:

Consumer district area 1. Beginning at the southwest block corner of Marshall and Ninth Streets; thence in a southerly direction along the west right-of-way line of Ninth Street to Grace Street; thence westerly on Grace Street to Seventh Street; thence southerly on Seventh Street to a point on the west line of Seventh Street and being a corner of parcel 1 of block W-8 and approximately in the center of the block; thence westerly 129.71 feet; thence southerly 160 feet, more or less, to the north line of Franklin Street; thence westerly along the north line of Franklin 130.92 feet; thence northerly on Sixth Street and over to the center of an alley at the west line of Sixth Street and bounded by Sixth, Franklin, Fifth and Grace Streets; thence westerly along the centerline of such alley 261 feet, more or less; thence northwesterly across Fifth Street to the center of a 12-foot alley; thence westerly along the center of the alley to the center of a 13.91-foot alley; thence southerly along such alley a short distance of 35 feet, more or less, and westerly over to a property corner of parcel 4 of block W-24 and being on the west line of such alley; thence westerly from such property corner 44.67 feet to a point; thence northerly 30.50 feet to the south line of a private alley; thence westerly along the south line of the private alley 86.58 feet; thence southwesterly across Fourth Street to the southeast corner of parcel 6 of block W-35 and on the north line of a 12-foot alley; thence westerly along parcel 6129.92 feet to a point;

thence northerly 61.67 feet to a point; thence westerly 46.50 feet to a point; thence northerly 35 feet to a point; thence westerly 84 feet to the east line of Third Street; thence southwesterly across Third Street to the center of an alley in block W-48 where it intersects the west line of Third Street; thence westerly along such alley and through a closed portion of the alley for a total distance of 261.08 feet, more or less; thence westerly across Second Street and through the center of an alley in block W-63 261 feet, more or less; thence westerly across First Street and through on the center of an alley in block W-83 263 feet, more or less; thence westerly across Foushee Street and along the center of an alley in block W-104 283.50 feet, more or less; thence northerly along Adams Street, across Grace Street, and over to the center of an alley on the west line of Adams Street in block W-127; thence westerly along the center of the alley 264 feet, more or less; thence westerly across Jefferson Street through the center of an alley in block W-148 271 feet, more or less; thence westerly across Madison Street through the center of an alley in block W-175 268 feet, more or less; thence westerly across Monroe Street through the center of an alley in block W-215 266 feet, more or less; thence westerly across Henry Street through the center of an alley in block W-259 303 feet, more or less, and to Belvidere Street; thence northerly on Belvidere Street, across Broad Street and to the center of an alley of block N-240; thence easterly along such alley 279 feet, more or less; thence easterly across Henry Street through the center of an alley in block N-206 263 feet, more or less; thence easterly across Monroe Street through the center of an alley in block N-180 266 feet, more or less; thence easterly across Madison Street through the center of an alley in block N-140 280 feet, more or less; thence easterly across Jefferson Street through the center of an alley in block N-119 and crossing Brook Road, 225 feet, more or less; thence easterly across Adams Street and through the center of an alley in block N-76 588 feet, more or less; thence across First Street to a point on the east line of First Street, such point being 146.50 feet north from the northeast corner of Broad and First Streets (block N-60); thence easterly 69.75 feet to a point; thence northerly 2.53 feet to a point; thence easterly 5.68 feet to a point; thence northerly 28.99 feet to a point; thence westerly 75 feet to a point on the east line of First Street; thence northerly on the east line of First Street 21.21 feet to a point; thence easterly for 49 feet to a point; thence northerly 107.50 feet to a point on the south line of Marshall Street; thence easterly along the south line of Marshall Street 56.24 feet to a point; thence southerly 157.96 feet to a point; thence easterly 7.86 feet to a point; thence southerly 1.75 feet to a point on parcel 27 of block N-60; thence easterly 44.70 feet to a point; thence southerly 3.63 feet to a point; thence easterly 45 feet, more or less, to a point; thence southerly 36.64 feet to a point; thence easterly 66.23 feet out to Second Street; thence northeasterly across Second Street and easterly along the center of an alley in block N-37 261 feet; thence across Third Street along the center of an alley in block N-26 261 feet; thence easterly across Fourth Street and across the center of block N-17 to Fifth Street; thence southerly on Fifth Street to Broad Street; thence easterly on Broad Street to the west line of a closed portion of Sixth Street; thence northerly along the west line of the closed portion of Sixth Street, at Sixth Street Marketplace, across Marshall Street and to a point 153 feet, more or less, north of the northwest block corner of Marshall and Sixth (closed) Streets; thence easterly across closed Sixth Street 64 feet, more or less, to a property line point on the east line of closed Sixth Street of block N-6 and such point being 153.02 feet north of the northeast block corner of Marshall and Sixth (closed) Streets; thence easterly 20 feet to a point; thence northerly 20 feet to a point; thence easterly 52 feet to a point; thence southerly 11 feet to a point; thence easterly 30 feet to a point; thence southerly 16 feet to a point; thence easterly ten feet, more or less, to an alley; thence southerly along the alley 153.28 feet to Marshall Street; thence easterly along Marshall Street, crossing Seventh and Eighth Streets, to the point of beginning at Ninth Street. See DPW Drawing No. O-22074, entitled "Downtown Special Assessment District, Consumer District" dated March 2, 1990.

Consumer district area 2. Beginning on 14th Street at the northeast corner of 14th Street and Exchange Alley; thence southerly along 14th Street to the southeast corner of block E-69 near Dock Street; thence along the Downtown Expressway off-ramp and south of blocks E-67 and E-69 to a point on the off-ramp south of 13th Street extended; thence northerly along 13th Street to the southeast corner of an alley (known as Shockoe Lane); thence westerly along such alley 280.90 feet to 12th Street; thence northerly along 12th Street to the northeast corner of 12th and Cary Streets; thence easterly along the north line of Cary Street 89.06 feet being the southwest corner of parcel 22 of block E-82; thence northerly along the west line of parcel 22 99.88 feet; to a ten-foot alley; thence along the south line of the ten-foot alley 89.22 feet; thence southerly 7.80 feet to the northwest corner of parcel 16 of block E-82; thence easterly 73.02 feet to 13th Street; thence easterly across 13th Street and along the center of Exchange Alley to the point of beginning. See DPW Drawing No. O-22074 dated March 2, 1990, entitled "Downtown Special Assessment District, Consumer District."

(Code 1993, § 27-484; Code 2004, § 98-866; Code 2015, § 26-1088)

Sec. 26-1089. Imposition of special assessment.

There shall be levied and collected for each year on all real estate subject to real estate taxation located within the boundary described in Section 26-1088 a special assessment of $0.00 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2001, and for each year thereafter until otherwise provided by law or ordinance.

(Code 1993, § 27-485; Code 2004, § 98-867; Code 2015, § 26-1089)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1090. Purpose of assessment.

(a) The assessments collected for the Downtown Consumer Special Service and Assessment Districts shall be used only for the following purposes:

(1) Economic development services;

(2) Promotion of business and retail development services;

(3) Beautification and landscaping;

(4) Public parking;

(5) Sponsorship and promotion of recreational and cultural activities; and

(6) Such other services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403 and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Downtown Consumer Special Service and Assessment Districts.

(b) The goal of the Downtown Consumer Special Service and Assessment Districts is the enhancement, coordination and expansion of retail uses within the districts.

(Code 1993, § 27-486; Code 2004, § 98-868; Code 2015, § 26-1090)

Secs. 26-1091—26-1118. Reserved.

DIVISION 4. RIVERFRONT SPECIAL SERVICE AND ASSESSMENT OVERLAY DISTRICT

Sec. 26-1119. District boundaries.

The Riverfront Special Service and Assessment Overlay District shall consist of the real estate described as follows:

Beginning at the intersection of Belvidere Street and Byrd Street; thence easterly along Byrd Street to 12th Street; thence northerly along 12th Street to the Downtown Expressway; thence easterly along the Downtown Expressway to Shockoe Slip; thence northerly along Shockoe Slip to a point on the north edge of tax map parcel E000-0067-015; thence easterly along the north edge of tax map parcel E000-0067-015 to Virginia Street; thence northerly along Virginia Street to Canal Street; thence easterly along Canal Street to 14th Street; thence southerly along 14th Street to the Downtown Expressway; thence easterly along the Downtown Expressway to 16th Street; thence easterly along the north line of the Downtown Expressway to the east line of relocated Dock Street; thence northeasterly along the east line of Dock Street to the floodwall; thence southwesterly along the west line of the floodwall to the north line of CSX Railroad property; thence along the north line of CSX Railroad property to the west line of 16th Street; thence southerly along 16th Street to a point on the south line of tax map parcel E000-0054-001; thence westerly along the south line of tax map parcel E000-0054-001 to 14th Street; thence southerly along 14th Street to the south line of the Chesapeake and Ohio Railway; thence in a westerly direction along the south line of the Chesapeake and Ohio Railway and crossing under the Manchester Bridge and along the north bank of the James River and crossing Chesapeake and Ohio Railway and Kanawha Canal being located on the westerly side of parcel 10 of block W-53; thence meandering in a northerly direction along the railway and between the Kanawha Canal and Riverside Park Road to Belvidere Street; thence in a northerly direction along Belvidere Street to the point of

beginning; and more particularly shown by a heavy dashed line on DPW Drawing No. N-22854-A dated April 8, 1998, entitled "Riverfront Special Assessment District," and on file in the Department of Public Works.

(Code 1993, § 27-487; Code 2004, § 98-891; Code 2015, § 26-1119)

Sec. 26-1120. Imposition of special assessments.

There shall be levied and collected for each year on all real estate subject to real estate taxation located within the boundary described in Section 26-1119 a special assessment of $0.035 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2002, and for each year thereafter until otherwise provided by law or ordinance.

(Code 1993, § 27-488; Code 2004, § 98-892; Code 2015, § 26-1120)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1121. Facilities and services to be provided.

(a) The assessments collected for the Riverfront Special Service and Assessment Overlay District shall be used only for the following purposes:

(1) Economic development services;

(2) Promotion of business and retail development services;

(3) Beautification and landscaping;

(4) Public parking;

(5) Sponsorship and promotion of recreational and cultural activities; and

(6) Such other facilities, services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403 and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Riverfront Special Service and Assessment Overlay District.

(b) The facilities, services, events and activities in subsection (a) of this section shall be provided within the Riverfront Special Service and Assessment Overlay District pursuant to an agreement between the City and Riverfront Management Corporation, a nonprofit corporation of this State formed or to be formed for such purpose.

(Code 1993, § 27-489; Code 2004, § 98-893; Code 2015, § 26-1121)

Secs. 26-1122—26-1150. Reserved.

DIVISION 5. RIVERFRONT MANUFACTURING SPECIAL SERVICE AND ASSESSMENT OVERLAY DISTRICT

Sec. 26-1151. District boundaries.

The Riverfront Manufacturing Special Service and Assessment Overlay District shall consist of the real estate described as follows:

Beginning at the intersection of the south right-of-way line of Byrd Street and the east right-of-way line of Tenth Street; thence along the south right-of-way line of Byrd Street in an easterly direction to the east right-of-way line of 12th Street; thence along the east right-of-way line of 12th Street in a northerly direction to the south line of the Downtown Expressway right-of-way; thence in a northeasterly direction to the east right-of-way line of Virginia Street; thence along the east right-of-way line of Virginia Street in a southeasterly direction to the south line of a utility easement (closed Byrd Street); thence along the south line of a utility easement (closed Byrd Street) in a northwesterly direction to the south right-of-way line of Byrd Street; thence in a southwesterly direction to the west right-of-way line of 12th Street; thence in a southwesterly direction along the north line of the Haxall Canal as it meanders, to the eastern right-of-way line of Tenth Street; thence in a northerly direction along the eastern right-of-way line of Tenth Street to the point of beginning, and more particularly shown hatched on DPW Drawing No. N-22854-A dated April 8, 1998, entitled "Riverfront Special Assessment District," and on file in the Department of Public Works.

(Code 1993, § 27-490; Code 2004, § 98-916; Code 2015, § 26-1151)

Sec. 26-1152. Imposition of special assessments.

(a) There shall be levied and collected for each year on all real estate subject to real estate taxation located within the boundary described in Section 26-1151 a special assessment of $0.35 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2002, and for each year thereafter until otherwise provided by law or ordinance.

(b) The special assessment set forth in subsection (a) of this section shall abate for any parcel of real estate for which the assessed value of any improvements located thereon not intended for manufacturing or industrial use exceeds the assessed value of the underlying land and any improvements located thereon which are intended for manufacturing or industrial use.

(Code 1993, § 27-491; Code 2004, § 98-917; Code 2015, § 26-1152)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1153. Facilities and services to be provided.

(a) The assessments collected for the Riverfront Manufacturing Special Service and Assessment Overlay District shall be used only for the following purposes:

(1) Economic development services;

(2) Promotion of business and retail development services;

(3) Beautification and landscaping;

(4) Public parking;

(5) Sponsorship and promotion of recreational and cultural activities; and

(6) Such other facilities, services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403 and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Riverfront Manufacturing Special Service and Assessment Overlay District.

(b) The facilities, services, events and activities in subsection (a) of this section shall be provided within the Riverfront Manufacturing Special Service and Assessment Overlay District pursuant to an agreement between the City and Riverfront Management Corporation, a nonprofit corporation of this State formed or to be formed for such purpose.

(Code 1993, § 27-492; Code 2004, § 98-918; Code 2015, § 26-1153)

Secs. 26-1154—26-1184. Reserved.

DIVISION 6. RIVERFRONT PREDEVELOPMENT SPECIAL SERVICE AND ASSESSMENT OVERLAY DISTRICT

Sec. 26-1185. District boundaries.

The Riverfront Predevelopment Special Service and Assessment Overlay District shall consist of all unimproved parcels of land, or parcels of land containing only uninhabitable and unoccupied structures (and upon which construction has not commenced and for which there are no open or active building permits for construction), within the boundaries of the real estate described as follows:

Beginning at the intersection of the east right-of-way line of Shockoe Slip and the north line of the Downtown Expressway right-of-way; thence along the east right-of-way line of Shockoe Slip in a northerly direction to the north line of Tax Map Parcel E000-0067-015; thence along the north line of Tax Map Parcel E000-0067-015 in an easterly direction to the west right-of-way line of Virginia Street; thence along the west right-of-way line of Virginia Street in a northerly direction to the south right-of-way line of Canal Street; thence along the south right-of-way line of Canal Street in an easterly direction to the east right-of-way line of 14th Street; thence along the east right-of-way line of 14th Street in a southerly direction to the north line of Tax Map Parcel E000-0054-001; thence along the north line of Tax Map Parcel E000-0054-001 in an easterly direction

to the west right-of-way line of 16th Street; thence along the west right-of-way line of 16th Street in a southerly direction to the south line of Tax Map Parcel E000-0054-001; thence along the south line of Tax Map Parcel E000-0054-001 in a westerly direction to the west right-of-way line of 14th Street; thence along the west right-of-way line of 14th Street in a southerly direction to the south line of the Chesapeake and Ohio Railway right-of-way; thence along the south right-of-way line of Chesapeake and Ohio Railway in a southwesterly direction to the east line of Tax Map Parcel E000-0001-002; thence northerly along the east line of Tax Map Parcel E000-0001-002 to the south line of the Haxall Canal; thence along the south line of the Haxall Canal as it meanders in an easterly direction to the intersection of the south right-of-way line of Byrd Street and the west right-of-way line of 12th Street; thence along the south right-of-way line of Byrd Street in an easterly direction to the south line of a utility easement (closed Byrd Street); thence along south line of a utility easement in a northerly direction to the east right-of-way line of Virginia Street; thence along the east right-of-way line of Virginia Street in a northwesterly direction to the south line of the Downtown Expressway right-of-way; thence along the south right-of-way line of the Downtown Expressway in a westerly direction to the Point of Beginning; and more particularly shown shaded on DPW drawing No. N-22854-A dated April 8, 1998, entitled "Riverfront Special Assessment District" filed in the Department of Public Works.

(Code 1993, § 27-493; Code 2004, § 98-941; Code 2015, § 26-1185; Ord. No. 2004-318-294, § 1, 11-8-2004; Ord. No. 2005-326-280, § 1, 12-12-2005; Ord. No. 2006-304-298, § 1, 12-11-2006)

Sec. 26-1186. Imposition of special assessments.

(a) There shall be levied and collected for each year on all real estate subject to real estate taxation located within the boundary described in Section 26-1185 a special assessment of $1.90 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2002, and for each year thereafter until otherwise provided by law or ordinance.

(b) The special assessment set forth in subsection (a) of this section shall abate for any parcel of real estate for which the assessed value of any improvements located thereon exceeds the assessed value of the underlying land.

(Code 1993, § 27-494; Code 2004, § 98-942; Code 2015, § 26-1186)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1187. Facilities and services to be provided.

(a) The assessments collected for the Riverfront Predevelopment Special Service and Assessment Overlay District shall be used only for the following purposes:

(1) Economic development services;

(2) Promotion of business and retail development services;

(3) Beautification and landscaping;

(4) Public parking;

(5) Sponsorship and promotion of recreational and cultural activities; and

(6) Such other facilities, services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403 and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Riverfront Predevelopment Special Service and Assessment Overlay District.

(b) The facilities, services, events and activities in subsection (a) of this section shall be provided within the Riverfront Predevelopment Special Service and Assessment Overlay District pursuant to an agreement between the City and Riverfront Management Corporation, a nonprofit corporation of this State formed or to be formed for such purpose.

(Code 1993, § 27-495; Code 2004, § 98-943; Code 2015, § 26-1187)

Secs. 26-1188—26-1207. Reserved.

DIVISION 7. RIVERFRONT DEVELOPING PROPERTIES SPECIAL SERVICE AND ASSESSMENT

OVERLAY DISTRICT

Sec. 26-1208. District boundaries.

The Riverfront Developing Properties Special Service and Assessment Overlay District shall consist of all parcels of land upon which construction has been commenced and is continuing (but which have not yet been assessed as a completed tax parcel(s) by the Office of the City Assessor), as evidenced by an open and active building permit relating to such tax parcel(s) and as determined by the Office of the City Assessor, within the boundaries of the real estate described as follows:

Beginning at the intersection of the east right-of-way line of Shockoe Slip and the north line of the Downtown Expressway right-of-way; thence along the east right-of-way line of Shockoe Slip in a northerly direction to the north line of Tax Map Parcel E000-0067-015; thence along the north line of Tax Map Parcel E000-0067-015 in an easterly direction to the west right-of-way line of Virginia Street; thence along the west right-of-way line of Virginia Street in a northerly direction to the south right-of-way line of Canal Street; thence along the south right-of-way line of Canal Street in an easterly direction to the east right-of-way line of 14th Street; thence along the east right-of-way line of 14th Street in a southerly direction to the north line of Tax Map Parcel E000-0054-001; thence along the north line of Tax Map Parcel E000-0054-001 in an easterly direction to the west right-of-way line of 16th Street; thence along the west right-of-way line of 16th Street in a southerly direction to the south line of Tax Map Parcel E000-0054-001; thence along the south line of Tax Map Parcel E000-0054-001 in a westerly direction to the west right-of-way line of 14th Street; thence along the west right-of-way line of 14th Street in a southerly direction to the south line of the Chesapeake and Ohio Railway right-of-way; thence along the south right-of-way line of Chesapeake and Ohio Railway in a southwesterly direction to the east line of Tax Map Parcel E000-0001-002; thence northerly along the east line of Tax Map Parcel E000-0001-002 to the south line of the Haxall Canal; thence along the south line of the Haxall Canal as it meanders in an easterly direction to the intersection of the south right-of-way line of Byrd Street and the west right-of-way line of 12th Street; thence along the south right-of-way line of Byrd Street in an easterly direction to the south line of a utility easement (closed Byrd Street); thence along south line of a utility easement in a northerly direction to the east right-of-way line of Virginia Street; thence along the east right-of-way line of Virginia Street in a northwesterly direction to the south line of the Downtown Expressway right-of-way; thence along the south right-of-way line of the Downtown Expressway in a westerly direction to the Point of Beginning; and more particularly shown shaded on DPW drawing No. N-22854-A dated April 8, 1998, entitled "Riverfront Special Assessment District" filed in the Department of Public Works.

(Code 2004, § 98-954; Code 2015, § 26-1208; Ord. No. 2004-317-293, § 1, 11-8-2004; Ord. No. 2005-327-281, § 1, 12-12-2005; Ord. No. 2006-303-297, § 1, 12-11-2006)

Sec. 26-1209. Impositions of special assessments.

There shall be levied and collected for each year on all real estate subject to real estate taxation described in Section 26-1208 a special assessment of $0.022 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2005, and for each year thereafter until otherwise provided by law or ordinance.

(Code 2004, § 98-955; Code 2015, § 26-1209; Ord. No. 2004-317-293, § 1, 11-8-2004; Ord. No. 2005-160-145, § 1, 6-27-2005)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1210. Facilities and services to be provided.

The assessments collected for the Riverfront Developing Properties Special Service and Assessment Overlay District shall be used only for the following purposes: economic development services, promotion of business and retail development services, beautification and landscaping, public parking, sponsorship and promotion of recreational and cultural activities and such other facilities, services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403, and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Riverfront Developing Properties Special Service and Assessment Overlay District pursuant to an agreement between the City of Richmond and Riverfront Management Corporation, a Virginia nonprofit corporation formed or to be formed for such purpose.

(Code 2004, § 98-956; Code 2015, § 26-1210; Ord. No. 2004-317-293, § 1, 11-8-2004)

Secs. 26-1211—26-1238. Reserved.

DIVISION 8. RIVERFRONT DEVELOPED CANAL PROPERTIES SPECIAL SERVICE AND ASSESSMENT OVERLAY DISTRICT

Sec. 26-1239. District boundaries.

(a) The Riverfront Developed Canal Properties Special Service and Assessment Overlay District shall consist of the real estate described as follows:

Each parcel of real property within the boundaries of the Riverfront Manufacturing Special Service and Assessment Overlay District, the Riverfront Predevelopment Special Service and Assessment Overlay District and the Riverfront Developing Properties Special Service and Assessment Overlay District as described in Sections 26-1151, 26-1185 and 26-1208 which has been assessed by the City as a completed property.

(b) Upon the date that such parcel is assessed as a completed property, such parcel shall cease to be within the districts described in subsection (a) of this section and shall be deemed to be in the Riverfront Developed Canal Properties Special Service and Assessment Overlay District.

(Code 1993, § 27-496; Code 2004, § 98-966; Code 2015, § 26-1239; Ord. No. 2004-319-295, § 1, 11-8-2004)

Sec. 26-1240. Imposition of special assessment.

There shall be levied and collected for each year on all real estate subject to real estate taxation located within the boundary described in Section 26-1239 a special assessment of $0.075 for each $100.00 of assessed valuation thereof for general purposes valuation for the tax year beginning January 1, 2007, and for each year thereafter until otherwise provided by law or ordinance.

(Code 1993, § 27-497; Code 2004, § 98-967; Code 2015, § 26-1240; Ord. No. 2007-128-91, § 1, 4-23-2007)

State law reference—Special assessments authorized, Code of Virginia, § 15.2-2400.

Sec. 26-1241. Facilities and services to be provided.

The assessments collected for the Riverfront Developed Canal Properties Special Service and Assessment Overlay District shall be used only for the following purposes:

(1) Economic development services;

(2) Promotion of business and retail development services;

(3) Beautification and landscaping;

(4) Public parking;

(5) Sponsorship and promotion of recreational and cultural activities; and

(6) Such other facilities, services, events or activities that are included within the activities described in Code of Virginia, § 15.2-2403 and that will enhance the public use and enjoyment of and the public safety, public convenience and public well-being within the Riverfront Developed Canal Properties Special Service and Assessment Overlay District pursuant to an agreement between the City and Richmond Riverfront Corporation, a nonprofit corporation of this State formed or to be formed for such purpose.

(Code 1993, § 27-498; Code 2004, § 98-968; Code 2015, § 26-1241)

Secs. 26-1242—26-1255. Reserved.

ARTICLE XVII. SHORT-TERM RENTAL TAX*

***State law reference—**Short-term rental tax, Code of Virginia, § 58.1-3510.4 et seq.

Sec. 26-1256. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of registration means a certificate issued by the Director of Finance which indicates the person named on the certificate is qualified as a short-term rental business, as defined in Code of Virginia, § 58.1-3510.4, and authorized to collect the daily rental tax from its customers and remit those taxes collected to the City. The certificate is not assignable and is valid only for the person in whose name it is issued and the place of business designated.

Gross proceeds means the total amount charged to each person for the rental of short-term rental property, excluding any State and local sales tax paid pursuant to the Virginia Retail Sales and Use Tax Act, Code of Virginia, § 58.1-600 et seq.

Short-term rental business means a business in which a person engaged in that business would be considered to be a person engaged in the short-term rental business under the provisions of Code of Virginia, § 58.1-3510.4(B).

Short-term rental property has the meaning ascribed to the term "short-term rental property" by Code of Virginia, § 58.1-3510.4(A).

(Code 1993, § 27-500; Code 2004, § 98-1001; Code 2015, § 26-1271; Ord. No. 2010-36-42, § 1, 2-22-2010)

Cross reference—Definitions generally, § 1-2.

Sec. 26-1257. Levied; amount.

(a) Pursuant to Code of Virginia, § 58.1-3510.6(A), there is hereby levied on the gross proceeds arising from rentals of any person engaged in the short-term rental business as defined in Code of Virginia, § 58.1-3510.4(B)(1) a tax of one percent.

(b) Pursuant to Code of Virginia, § 58.1-3510.6(B), there is hereby levied on the gross proceeds arising from rentals of any person engaged in the short-term rental business as defined in Code of Virginia, § 58.1-3510.4(B)(2) a tax of 1 1/2 percent.

(c) The tax levied pursuant to subsections (a) and (b) of this section shall be in addition to the tax levied pursuant to Code of Virginia, § 58.1-605. The imposition and collection of a short-term rental property tax pursuant to this section with respect to rental property shall be in lieu of taxation of such rental property as tangible personal property in the same tax year.

(Code 1993, § 27-500(a); Code 2004, § 98-1002; Code 2015, § 26-1272; Ord. No. 2010-36-42, § 1, 2-22-2010)

Sec. 26-1258. Taxation of rental property that is not daily rental property.

Except for daily rental vehicles pursuant to Code of Virginia, § 58.1-3510 and short-term rental property, rental property shall be classified, assessed and taxed as tangible personal property.

(Code 1993, § 27-501; Code 2004, § 98-1003; Code 2015, § 26-1273; Ord. No. 2010-36-42, § 1, 2-22-2010)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.6(E).

Sec. 26-1259. Collection, return and remittance.

Every person engaged in the short-term rental business shall collect the rental tax from the lessee of the daily rental property at the time of the rental. The lessor of the daily rental property shall transmit a quarterly return to the Director of Finance, indicating the gross proceeds derived from the short-term rental business, and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of the tax shall be filed with the Director of Finance on or before April 15, July 15, October 15 and January 15 representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The return shall be upon such forms and shall set forth such information as the Director of Finance may require, showing the amount of gross receipts and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

(Code 1993, § 27-502; Code 2004, § 98-1004; Code 2015, § 26-1274; Ord. No. 2010-36-42, § 1, 2-22-2010)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.6(C).

Sec. 26-1260. Exclusions and exemptions.

No tax shall be collected or assessed on rentals by the Commonwealth, any political subdivision of the Commonwealth or the United States, or any rental of durable medical equipment as defined in Code of Virginia, § 58.1-609.10(10). Additionally, all exemptions applicable to the Virginia Retail Sales and Use Tax Act, Code of Virginia, § 58.1-600 et seq., shall apply mutatis mutandis to the short-term rental property tax.

(Code 1993, § 27-503; Code 2004, § 98-1005; Code 2015, § 26-1275; Ord. No. 2010-36-42, § 1, 2-22-2010)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.5(C).

Sec. 26-1261. Certificate of registration.

(a) Every person engaging in the short-term rental business shall file an application for a certificate of registration with the Director of Finance. The application shall be on a form prescribed by the Director of Finance and shall set forth the name under which the applicant intends to operate the rental business, the location of the business, the subdivision of Code of Virginia, § 58.1-3510.4(B) under which the business asserts that it is qualified and such other information as the Director of Finance may require.

(b) Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership or corporation to sign.

(c) Upon approval of the application by the Director of Finance, a certificate of registration shall be issued. The certificate shall be conspicuously displayed at all times at the place of business for which it is issued.

(d) The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

(e) A person who has not previously been engaged in the short-term rental business who applies for a certificate of registration pursuant to this section shall be eligible for registration upon such person's certification that such person anticipates meeting the requirements of a specific subdivision of Code of Virginia, § 58.1-3510.4(B), designated by the applicant at the time of application, during the year for which registration is sought.

(f) In the event the Director of Finance makes a written determination that a rental business previously certified as a short-term rental business pursuant to this article has failed to meet either of the tests set forth in Code of Virginia, § 58.1-3510.4(B) during a preceding tax year, such business shall lose its certification as a short-term rental business and shall be subject to the business personal property tax with respect to all rental property for the tax year in which such certification is lost and any subsequent tax years until such time as the rental business obtains recertification pursuant to this subsection. In the event that a rental business loses its certification as a short-term rental business pursuant to this subsection, such business shall not be required to refund to customers daily rental property taxes previously collected in good faith and shall not be subject to assessment for business personal property taxes with respect to rental property for tax years preceding the year in which the certification is lost unless the Director of Finance makes a written determination that the business obtained its certification by knowingly making materially false statements in its application, in which case the Director of Finance may assess the taxpayer the amount of the difference between short-term rental property taxes remitted by such business during the period in which the taxpayer wrongfully held certification and the business personal property taxes that would have been due during such period but for the certification obtained by the making of the materially false statements. Any such assessment, and any determination not to certify or to decertify a rental business as a short-term rental business as defined in this subsection, may be appealed pursuant to the procedures and requirements set forth in the Code of Virginia, § 58.1-3983.1 for appeals of local business taxes, which shall apply mutatis mutandis to such assessments and certification decisions.

(g) A rental business that has been decertified pursuant to the provisions of subsection (f) of this section shall be eligible for recertification for a subsequent tax year upon a showing that it has met one of the tests provided in Code of Virginia, § 58.1-3510.4(B) for at least ten months of operations during the present tax year.

(Code 1993, § 27-504; Code 2004, § 98-1006; Code 2015, § 26-1276; Ord. No. 2010-36-42, § 1, 2-22-2010)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.4.

Secs. 26-1262—26-1275. Reserved.

ARTICLE XVIII. CIGARETTE TAX*

***State law reference**—Local excise tax on cigarette authorized, Code of Virginia, § 58.1-3849; local cigarette tax not prohibited, Code of Virginia, § 58.1-3830; local cigarette tax ordinances, Code of Virginia, § 58.1-3832.

Sec. 26-1276. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cigarette means any slender roll of cut tobacco enclosed in paper and meant to be smoked.

Dealer means any manufacturer, jobber, wholesaler, or other person who supplies a seller with cigarettes.

Director means the Director of Finance or the designee thereof.

Package means any box, can, or other container of any cigarettes, regardless of the material from which such container is made, to which the internal revenue stamp of the United States government is required or was formerly required to be affixed and in which retail sales of such cigarettes are normally made or intended to be made.

Purchaser means any person to whom ownership of any cigarettes is transferred by a seller within the corporate limits of the City.

Sale means any act or transaction, regardless of the method or means employed, including the use of vending machines and other mechanical devices, whereby ownership of any cigarettes is transferred from the seller to any other person within the corporate limits of the City.

Seller means any person who transfers ownership of any cigarettes, or in whose place of business title to any cigarettes is transferred, within the corporate limits of the City, for any purpose other than resale.

Stamp means a small gummed piece of paper or decalcomania to be sold by the Director and to be affixed to every package of cigarettes sold to dealers or sellers in the City and any insignia or symbols printed by a meter machine upon any such package under the authorization of the Director.

(Code 2015, § 26-1277; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1277. Levy and rate; penalty for nonpayment.

(a) *Levy and rate*. In addition to all other taxes of every kind now or hereinafter imposed by any other ordinance or law, there is hereby levied and imposed by the City upon the sale of each cigarette within the City a tax of $0.025 per cigarette. The seller and dealer shall pay the amount of such tax, if not previously paid, in the manner and at the time provided for in this article; provided, however, that the tax payable for each cigarette sold within the City only shall be paid once.

(b) *Penalty for nonpayment*. For any amount of the tax imposed herein found to be overdue and unpaid, there shall be a penalty for such late payment in the amount of ten percent, not to exceed an amount equal to ten percent per month, and interest of nine percent per year, upon any tax found to be overdue and unpaid.

(Code 2015, § 26-1278; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1278. Method of payment.

(a) The tax imposed by this article shall be paid by affixing or causing to be affixed a stamp or stamps, of proper denominational or face value, to each package of cigarettes sold within the City, in the manner and at the time or times provided for in this article. Every dealer and seller in the City shall have the right to buy such stamps from the Director and to affix the same to packages of cigarettes as provided in this article.

(b) The Director is authorized to permit the payment of the tax levied and imposed by this article by the method of placing imprints of the stamps upon original packages by the use of meter machines, in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and to prescribe and enforce the necessary regulations setting forth the method to be employed and the conditions to be observed in the use of such meter machines.

(Code 2015, § 26-1279; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1279. Discount for heat-applied cigarette tax stamps.

For the purpose of making stamps available for use, the Director shall prescribe, prepare, and sell stamps of such denominations and in such quantities as may be necessary for the payment of the tax imposed by this article. In the sale of such stamps, the Director shall allow a discount of four percent of the denominational or face value thereof to cover the costs which will be incurred in affixing the stamps to packages of cigarettes. In the event the printing by an authorized meter machine is used in lieu of gummed stamps, there shall be no discount given on the denominational or face value of the imprints of such stamps so printed by the meter machine.

(Code 2015, § 26-1279.1; Ord. No. 2020-006, § 1(26-1279.1), 1-27-2020)

Sec. 26-1280. Stamps generally; visibility of stamps or meter marking; altering design of stamps; use of dual die or stamp by wholesaler; refund for unused stamps.

(a) *Generally.* For the purpose of making stamps available for use, the Director shall prepare and sell stamps of such denominations and in such quantities as may be necessary for the payment of the taxes imposed by this article.

(b) *Visibility of stamps or meter markings.* Stamps or the printed markings of a meter machine shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.

(c) *Altering design of stamps.* The Director may, from time to time, and as often as the Director may deem necessary, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

(d) *Use by wholesaler of dual die or stamp to evidence payment.* The Director may enter into an arrangement with the Virginia Department of Taxation under which any tobacco wholesaler who so desires may use a dual die or stamp to evidence the payment of both the tax levied by this article and the state tax on cigarettes.

(e) *Refund for unused stamps or meter imprints.* Any person who, after acquiring from the Director any stamps provided for in this article, ceases to be engaged in a business necessitating the use thereof or if any such stamps become mutilated and unfit for use other than by a violation of this article, such person shall be entitled to a refund of the purchase price of any stamps so acquired and not used by such person upon presenting such stamps to the Director and furnishing the Director with an affidavit showing, to the Director's satisfaction, that such stamps were acquired by such person and have not in any manner been used and the reason for requesting such refund. In the case of any authorized meter machine, if any imprints of such machine have been paid for but have not been used, such person shall, upon furnishing the Director with an affidavit, be entitled to a refund of the denominational or face amount thereof.

(Code 2015, § 26-1280; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1281. Duties of dealers and sellers with respect to stamps.

(a) Every local dealer in cigarettes is hereby required, and it shall be such dealer's duty, to purchase such stamps from the Director as shall be necessary to pay the tax levied and imposed by this article and shall affix, or cause to be affixed, a stamp or stamps of the monetary value prescribed by this article to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller. Nothing in this section shall preclude any dealer from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this article.

(b) Every seller shall examine each package of cigarettes prior to exposing the same for sale for the purpose of ascertaining whether such package has the proper stamps affixed thereto or imprinted thereon as provided by this article. If, upon such examination, the seller discovers unstamped or improperly stamped packages of cigarettes, the seller, where such cigarettes were obtained from a local dealer, shall immediately notify such dealer, and, upon such notification, such dealer shall either affix to or imprint upon such unstamped or improperly stamped packages the proper amount of stamps or shall replace such packages with others to which stamps have been properly affixed or imprinted thereon.

(c) If a seller should obtain or acquire possession from any person, other than a local dealer, of any stamped or improperly stamped cigarettes, such seller shall, before selling or offering such cigarettes for sale in the City, purchase from the Director and affix or cause to be affixed to such packages of cigarettes the proper stamps, covering the tax imposed by this article.

(Code 2015, § 26-1281; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1282. Seizure and disposal of unstamped cigarettes—Generally.

(a) If the Director discovers any cigarettes, in quantities of more than six cartons, within the City that are subject to the tax imposed by this article and upon which the tax has not been paid, upon which stamps have not been affixed, or evidence of such tax payment is not shown by the printed markings of an authorized meter machine as required by this article, the Director may seize and confiscate such cigarettes, which shall be deemed to be forfeited to the City, and may, after providing notice of such seizure to the known holders of property interests in such property in the manner set forth in subsection (b) of this section, provide for the sale of such forfeited cigarettes. No credit from such sale shall be allowed toward any tax or penalties and interest owed, nor shall such seizure and sale deemed to relieve any person from any fine or other penalty provided for the violation of the provisions of this article. All monies collected under the provisions of this section shall be paid to the City. The mere possession of untaxed cigarettes in quantities of not more than six cartons shall not be a violation of any provision of this article.

(b) All cigarettes seized and confiscated according to subsection (a) of this section shall be deemed to be forfeited to the City. The Director shall provide for notice of such seizure and confiscation to the known holders of property interests in the cigarettes. Such notice shall be given to known holders of property interests, if any, by certified mail and by written notice posted at the court house of the Circuit Court of the City of Richmond at least seven days before the date of sale. Such notice shall contain the time and place at which the sale is to occur and, as set forth in the rules and regulations prepared by the Director, procedures for administrative appeal, as well as affirmative defenses that may be asserted by such holders.

(Code 2015, § 26-1282; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1283. Seizure and disposal of unstamped cigarettes—Cigarettes in transit.

(a) Cigarettes found in quantities of more than six cartons within the City shall be presumed for sale or use within the City and may be seized and confiscated by the Director if:

(1) Such cigarettes are in transit and are not accompanied by a bill of lading or other document indicating the true name and address of the seller or purchaser and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document that is false or fraudulent, in whole or in part;

(2) Such cigarettes are in transit and are accompanied by a bill of lading or document indicating:

a. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or district of destination has been paid and the said cigarettes bear the tax stamps of that jurisdiction; or

b. A consignee or purchaser in the Commonwealth of Virginia, but outside of the City, who does not possess a Virginia sales and use tax certificate, a Virginia retail tobacco license and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination; or

(3) Such cigarettes are not in transit, the tax imposed by this article has not been paid, and no approved arrangement for payment has been made, provided that this subdivision shall not apply to cigarettes in the possession of distributors or public warehouses that have filed notice and appropriate proof with the Director that those cigarettes are temporarily within the City and will be sent to consignees or purchasers outside the City in the normal course of business.

(b) Cigarettes seized and confiscated pursuant to this section shall be deemed to be forfeited to the City as contraband property, and the Director may provide for the sale of such forfeited cigarettes in the same manner as provided for the sale of cigarettes as set forth in Section 26-1282 and subject to the notice requirements set forth in Section 26-1286(b).

(Code 2015, § 26-1283; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1284. Dealer's and seller's records; examination of records.

Every local dealer and seller shall maintain and keep, for a period of two years, such records, books, and invoices of cigarettes sold and delivered by such dealer or seller as may be required by the Director and shall make

all such records available for examination by the Director, upon demand, at all reasonable times. The Director may examine such records, books, invoices, and any and all cigarettes at any location where the same are, as applicable, placed, stored, sold, offered for sale, or displayed for sale by a local dealer or seller.

(Code 2015, § 26-1284; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1285. Rules and regulations for enforcement and administration of article.

The Director shall prepare rules and regulations for the administration and enforcement of the provisions of this article. Such rules and regulations shall include the procedures for administrative appeal and the affirmative defenses that may be asserted by holders of property interests.

(Code 2015, § 26-1285; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1286. Violations of article—Generally.

(a) Any person violating any of the provisions of this article shall be deemed guilty of a Class 1 misdemeanor. Conviction and punishment for such violation shall not relieve any person from the payment of any tax imposed by this article. In addition, any person who shall commit any fraudulent act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article shall be required to pay a penalty in the amount of ten percent, and interest of nine percent per year, upon any tax found to be overdue and unpaid.

(b) In accordance with Section 1-16(c), each day that any violation of, or noncompliance with, any of the provisions of this article continues shall constitute a separate offense.

(Code 2015, § 26-1286; Ord. No. 2019-059, § 1, 5-13-2019)

Sec. 26-1287. Violations of article—Prohibited acts.

It shall be unlawful for any person:

(1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof; or for any dealer or seller, with the intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon such dealer or seller under the provisions of this article or to fail or refuse to comply with requests made by the Director in accordance with this article or other applicable law.

(2) To falsely or fraudulently make, forge, alter, or counterfeit any stamp or the printed markings of any meter machine, to procure or cause to be made, forged, altered, or counterfeited any such stamp or printed markings of a meter machine, or knowingly and willfully to alter, publish, pass, or tender as true any false, altered, forged, or counterfeited stamp or stamps or printed markings of a meter machine.

(3) To sell any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes.

(4) To reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been paid, have been removed.

(5) To remove from any package any stamp or the printed markings of a meter machine with the intent to use or cause such stamp or printed markings to be used after the same have been used, or to buy, sell, offer for sale, or give away, any used, removed, or restored stamps or printed markings of a meter machine, to any person, or to reuse any stamp or printed markings of a meter machine that has been used for evidence of the payment of any tax prescribed by this article, or, except as to the Director, to sell or offer to sell any stamp or printed markings of a meter machine provided for in this article.

(Code 2015, § 26-1287; Ord. No. 2019-059, § 1, 5-13-2019)

Chapter 27

TRAFFIC AND VEHICLES*

***Charter reference**—Authority of City to regulate operation of motor vehicles and to control traffic, § 2.04(g).

Cross reference—Any ordinance or resolution relating to routes and schedules prescribed for motorbus transportation within the City and rates of fares that may be charged for transportation within the City and rates of fares that may be charged for transportation thereon saved from repeal, § 1-4(11); any ordinance or resolution pertaining to traffic regulations on specific streets saved from repeal, § 1-4(13); traffic control function of Department of Public Works, § 2-428; Highway Safety Commission, § 2-871; placing handbills, signs or other advertising matter in or on vehicles, § 6-123; traffic in cemeteries, § 7-25; unauthorized vehicles in festival park, § 8-345; unauthorized vehicles at Downtown Riverfront Canal Area, § 8-475; vehicle noise, § 11-29; offenses and miscellaneous provisions, Ch. 19; streets, sidewalks and public ways, Ch. 24; vehicles for hire, Ch. 29; parking and storage of recreational vehicles, commercial vehicles and mobile homes, § 30-640.1 et seq.

State law reference—Vehicles and traffic generally, Code of Virginia, § 46.2-100 et seq.

ARTICLE I. IN GENERAL

Sec. 27-1. Official title.

This chapter shall be known as the Traffic Code of the City of Richmond and may be so cited.

(Code 1993, § 28-1; Code 2004, § 102-1; Code 2015, § 27-1)

Sec. 27-2. Adoption of State law by reference.

(a) Pursuant to the authority granted in Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the Commonwealth contained in Code of Virginia, Title 46.2 (Code of Virginia, § 46.2-100 et seq.); Code of Virginia, Title 16.1, Ch. 11, Art. 9 (Code of Virginia, § 16.1-278 et seq.); and Code of Virginia, Title 18.2, Ch. 7, Art. 2 (Code of Virginia, § 18.2-266 et seq.), and all future amendments to such laws, except those provisions and requirements the violation of which constitutes a felony and except those provisions and requirements which, by their very nature, can have no application to or within the City, are hereby adopted and incorporated into this section by reference and made applicable within the City.

(b) References to "highways of the State" or "Commonwealth" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the City. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this section as fully as though set forth at length herein, and it shall be unlawful for any person, within the City, to violate, or fail, neglect or refuse to comply with any provision of Code of Virginia, Title 46.2 (Code of Virginia, § 46.2-100 et seq.); Code of Virginia, Title 16.1, Ch. 11, Art. 9 (Code of Virginia, § 16.1-278 et seq.); and Code of Virginia, Title 18.2, Ch. 7, Art. 2 (Code of Virginia, § 18.2-266 et seq.), which is adopted by this section; provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Code of Virginia, Title 46.2 (Code of Virginia, § 46.2-100 et seq.); Code of Virginia, Title 16.1, Ch. 11, Art. 9 (Code of Virginia, § 16.1-278 et seq.); and Code of Virginia, Title 18.2, Ch. 7, Art. 2 (Code of Virginia, § 18.2-266 et seq.).

(c) All definitions of words and phrases contained in such provisions and requirements adopted in subsections (a) and (b) of this section shall apply to such words and phrases when used in this chapter unless clearly indicated to the contrary.

(Code 1993, § 28-2; Code 2004, § 102-2; Code 2015, § 27-2; Ord. No. 2004-263-248, § 1, 9-27-2004)

Sec. 27-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief means the Chief of Police of the Department of Police.

Commercial or delivery vehicle means a loaded or empty motor vehicle designed or regularly used for carrying freight, merchandise, or more than ten passengers, including buses.

Police officer means a law enforcement officer, as defined in Code of Virginia, Title 46.2 (Code of Virginia, § 46.2-100 et seq.).

(Code 1993, § 28-3; Code 2004, § 102-3; Code 2015, § 27-3)

Cross reference—Definitions generally, § 1-2.

Sec. 27-4. Disposition of fines and forfeitures.

All fines or forfeitures collected upon conviction or upon a forfeiture of bail of any person charged with a violation of any section of this chapter shall be paid into the City treasury.

(Code 1993, § 28-4; Code 2004, § 102-4; Code 2015, § 27-4)

Charter reference—Disposition of fines, § 2.04(g).

Sec. 27-5. Report of conviction sent to State.

The clerk of the court trying a person charged with an offense under this chapter shall keep a full record of every case. If such person is convicted or the person's bail is forfeited, an abstract of such record shall be sent promptly by such clerk to the State Department of Motor Vehicles.

(Code 1993, § 28-5; Code 2004, § 102-5; Code 2015, § 27-5)

Sec. 27-6. Form and certification of abstracts.

(a) Abstracts required by Section 27-5 shall be made upon forms prepared by the State Department of Motor Vehicles and shall include all necessary information as to the following:

(1) The parties to the case;

(2) The nature of the offense;

(3) The date of the hearing;

(4) The plea;

(5) The judgment;

(6) The amount of the fine or forfeiture, as the case may be; and

(7) The residence address or whereabouts of the defendant.

(b) Every such abstract shall be certified by the clerk as a true abstract of the records of the court.

(Code 1993, § 28-6; Code 2004, § 102-6; Code 2015, § 27-6)

Sec. 27-7. Applicability of chapter to vehicles regardless of ownership.

The sections of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles regardless of ownership, subject to such specific exceptions as are set forth in this chapter.

(Code 1993, § 28-7; Code 2004, § 102-7; Code 2015, § 27-7)

State law reference—Similar provisions, Code of Virginia, § 46.2-801.

Sec. 27-8. Applicability of chapter to City property.

This chapter and the authority, powers and duties of the Chief of Police and police officers under this chapter shall extend and shall be applicable to and exercised and performed on any property or area owned or used by the City or leased or permitted by the City to be used by others.

(Code 1993, § 28-8; Code 2004, § 102-8; Code 2015, § 27-8)

Sec. 27-9. Reimbursement of expenses incurred in responding to DUI and other traffic accidents or incidents.

(a) A person convicted of violating any of the following provisions shall be liable in a separate civil action for reasonable expenses incurred by the City or by any volunteer rescue squad, or both, when providing an appropriate emergency response to any accident or incident related to such violation. Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed $1,000.00 in the aggregate for a particular accident or incident occurring in the City.

(1) The provisions of Code of Virginia, § 18.2-51.4, 18.2-266 or 29.1-738 or a similar City ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

(2) The provisions of Code of Virginia, Title. 46.2, Ch. 8, Art. 7 (Code of Virginia, § 46.2-852 et seq.), relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident; and

(3) The provisions of Code of Virginia, § 46.2-894, relating to improperly leaving the scene of an accident.

(b) In determining "reasonable expenses," the City may bill a flat fee of $250.00 or a minute-by-minute accounting of the actual costs incurred. As used in this section, the term "appropriate emergency response" includes all costs of providing law enforcement, firefighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the City for firefighting, rescue and emergency medical services.

(c) The Department of Police shall compile a report of the reasonable expenses of the appropriate emergency response for each accident or incident and forward that information to the Department of Finance for appropriate proceedings. The Department of Fire and Emergency Services shall have the same reporting requirements except for accidents or incidents for which restitution is sought.

(Code 2004, § 102-9; Code 2015, § 27-9; Ord. No. 2005-238-217, § 1, 10-10-2005)

State law reference—Authority for above section, Code of Virginia, § 15.2-1716.

Sec. 27-10. Video-monitoring system on school buses.

The School Board of the City of Richmond, Virginia is hereby authorized to install and operate a video-monitoring system, as defined by Code of Virginia, § 46.2-844, in or on the school buses operated by the School Board or to contract with a private vendor to do so on behalf of the School Board for the purpose of recording violations of Code of Virginia, § 46.2-844(A).

(Code 2015, § 27-10; Ord. No. 2016-230, § 1, 9-26-2016)

Secs. 27-11—27-36. Reserved.

ARTICLE II. MISCELLANEOUS OFFENSES

Sec. 27-37. Boarding or alighting from vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Code 1993, § 28-21; Code 2004, § 102-41; Code 2015, § 27-37)

State law reference—Boarding or alighting from buses, Code of Virginia, § 46.2-927.

Sec. 27-38. Unlawful riding; interference with driver's control.

(a) No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

(b) No passenger in a vehicle shall ride in such a position as to interfere with the driver's control over the driving mechanism of the vehicle. The Chief of Police may require the installation of such white markers in public transit vehicles designating places where passengers shall not stand or ride as are necessary to give the driver full visibility.

(Code 1993, § 28-22; Code 2004, § 102-42; Code 2015, § 27-38)

State law reference--Driving with driver's view obstructed or control impaired, Code of Virginia, § 46.2-855.

Sec. 27-39. Throwing or propelling parcels, bundles or other articles from moving vehicles.

It shall be unlawful for any person to throw or propel or cause to be thrown or propelled any parcel, bundle, package or any other article from any moving vehicle in, over or across any street, sidewalk, alley or other public place of the City.

(Code 1993, § 28-23; Code 2004, § 102-43; Code 2015, § 27-39)

Sec. 27-40. Automobile cruising.

(a) No person shall drive or permit a motor vehicle under his care, custody, or control to be driven past a traffic control point three or more times within a two-hour period from 6:00 p.m. to 4:00 a.m. Monday through Sunday, in or around a posted no cruising area so as to contribute to traffic congestion; obstruction of streets, sidewalks, parking lots, or public vehicular areas; impediment of access to shopping centers or other buildings open to the public; or interference with the use of property or conduct of business in the area adjacent thereto.

(b) At every point where a public street or alley becomes or provides ingress to a no-cruising area, there shall be posted a sign which designates "No-Cruising" areas and times.

(c) The term "traffic control point," as used in this section, means any point or points within the no-cruising area established by the local law enforcement agency for the purpose of monitoring cruising.

(d) No violations shall occur except upon the third passage past the same traffic control point within a two-hour period.

(e) No area shall be designated or posted as a no-cruising area except upon the passage of a resolution by the City Council specifically requiring such designation and posting for a particular area.

(f) This section shall not apply to in-service emergency vehicles, taxicabs for hire, buses, and other vehicles being used for business purposes.

(g) Where there is a violation of any provision of this section, a law enforcement officer shall charge such violation on the uniform traffic summons form. Any person violating this section shall, upon conviction, be subject to a fine of $25.00. Any person convicted of a second or subsequent violation of this section shall be punished by a fine of not less than $50.00 nor more than $100.00 for each succeeding violation. No assignment of demerit points shall be made under Code of Virginia, Title 46.2, Ch. 3, Art. 19 (Code of Virginia, § 46.2-489 et seq.) for any violation of this section.

(Code 1993, § 28-24.1; Code 2004, § 102-45; Code 2015, § 27-40; Ord. No. 2004-226-223, § 1, 8-4-2004)

State law reference—Regulation or prohibition of vehicular traffic on certain privately owned public parking areas and driveways, Code of Virginia, § 46.2-1219.1.

Sec. 27-41. Distracted driving.

(a) It is unlawful for any person, while driving a moving motor vehicle on the highways to hold a handheld personal communications device.

(b) The provisions of this section shall not apply to:

(1) The operator of any emergency vehicle while he is engaged in the performance of his official duties;

(2) An operator who is lawfully parked or stopped;

(3) Any person using a handheld personal communications device to report an emergency;

(4) The use of an amateur or a citizens band radio; or

(5) The operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in Code of Virginia, § 46.2-920.1(B) during the performance of traffic incident management services.

(c) A violation of this section is a traffic infraction punishable, for a first offense, by a fine of $125.00 and, for a second or subsequent offense, by a fine of $250.00. If a violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of $250.00.

(d) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Emergency vehicle means:

(1) Any law enforcement vehicle operated by or under the direction of a Federal, State, or local law enforcement officer while engaged in the performance of official duties;

(2) Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

(3) Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

(4) Any emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

(5) Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

(6) Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law enforcement officer; and

(7) Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to Code of Virginia, § 46.2-1029.2.

Highway work zone means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.

(Code 2015, § 27-40.1; Ord. No. 2019-288, § 1(27-40.1), 12-9-2019)

Editor's note—This section is not effective until January 1, 2021, as the acts that it tracks are not effective until that date.

State law reference--Use of handheld personal communications devices in certain motor vehicles, Code of Virginia, § 46.2-818.2; texting and use of handheld mobile telephone in commercial motor vehicles, Code of Virginia, § 46.2-341.20:5.

Sec. 27-42. Penalty for violation.

It shall be unlawful for any person to violate any section of this chapter. Every person convicted of any such violation, for which no other penalty is provided, shall be guilty of a traffic infraction punishable by a fine of not more than $100.00.

(Code 1993, § 28-25; Code 2004, § 102-46; Code 2015, § 27-41)

State law reference—Similar provisions, Code of Virginia, § 46.2-113.

Secs. 27-43—27-70. Reserved.

ARTICLE III. TRAFFIC CONTROL SIGNS, SIGNALS AND MARKERS

Sec. 27-71. Authority of Chief of Police.

(a) The Chief of Police is hereby authorized and directed to:

(1) Make, promulgate and enforce rules and regulations to prohibit other than one-way vehicular traffic upon highways;

(2) Regulate the use of highways by processions or assemblages;

(3) Require all vehicles to come to a full stop at any highway intersection; and

(4) Repeal, amend or modify any rule or regulation made and promulgated under this chapter.

(b) The Chief is further authorized to erect and maintain such appropriate signs, markers, semaphores, signals or other devices as may be deemed necessary to enforce the rules and regulations made and promulgated to regulate and control vehicular traffic and travel upon highways by pedestrians and to execute the sections of this chapter. The Chief shall also have the authority to designate private driveways as either "entrances" or "exits." When the property owner or lessee is notified in writing of such designation, such owner or lessee shall install appropriate signs in accordance with specifications drawn by the City Traffic Engineer, and the drivers of all vehicles using such highways shall obey such signs.

(c) Unless otherwise provided, any person violating any rule or regulation made and promulgated by the

Chief to regulate and control vehicular traffic shall be punished in accordance with Section 27-42, and any person violating any rule or regulation made and promulgated by the Chief to regulate and control travel upon highways by pedestrians shall be punished upon conviction by a fine not exceeding that provided for a traffic violation, each such violation constituting a separate offense. However, no such rule or regulation shall be deemed to be violated if, at the time of the alleged violation, the designation, signal, semaphore, sign or other device placed in conformity with this section was missing, out of order, effaced, mutilated or defaced, so that an ordinarily observant person, under the named circumstances, would not be apprised of or aware of the existence of such rule or regulation.

(Code 1993, § 28-71; Code 2004, § 102-81; Code 2015, § 27-71)

State law reference—Regulation of pedestrians by signs, etc., Code of Virginia, § 46.2-935.

Sec. 27-72. Approval of barriers or signs.

No person, public utility or any City department shall erect or place any barrier or sign on any street or sidewalk, unless first authorized by the Chief or the City Traffic Engineer.

(Code 1993, § 28-72; Code 2004, § 102-82; Code 2015, § 27-72)

Sec. 27-73. Unlawful erection, maintenance or operation of certain devices, structures or lights.

(a) It shall be unlawful for any person to erect, maintain or operate any advertising device, structure or light on any property or highway in the City which:

(1) Is primarily designed for the purpose of distracting the attention of drivers of vehicles by flashing lights, movement of objects or emission of blatant sound;

(2) Is illuminated in such manner as to interfere with the vision of drivers of vehicles or pedestrians; or

(3) Resembles or is operated to resemble traffic control signals, lights or signs authorized to be erected, maintained or operated on the streets pursuant to this chapter or other provision of law. Every person who erects, maintains or operates any such device, structure or light shall remove it from such property or street or otherwise render it inoperative when ordered by the Chief to do so, and it shall be unlawful for any such person to fail, refuse or neglect to comply with the order of the Chief.

(b) It shall be unlawful for any person to erect, place, maintain or operate on any property or highway in the City any sign or device of any kind designed to regulate or control vehicular traffic on any highway or to warn operators of vehicles on any highway. Every such sign or device shall be removed by such person, when ordered by the Chief to do so, and it shall be unlawful for any such person to fail, refuse or neglect to do so when ordered. Nothing in this section shall be construed to amend, modify or repeal any of the sections of this article or other similar law or ordinance.

(Code 1993, § 28-73; Code 2004, § 102-83; Code 2015, § 27-73)

State law reference—Unofficial signs prohibited, Code of Virginia, § 46.2-831.

Secs. 27-74—27-104. Reserved.

ARTICLE IV. INSPECTION, LICENSING AND REGISTRATION*

***State law reference—**Registration and licensing, Code of Virginia, § 46.2-600 et seq.; inspection and inspection stations, Code of Virginia, § 46.2-1157.

Sec. 27-105. Motor vehicle license tax.

(a) Pursuant to authority conferred in Code of Virginia, § 15.2-973, there is hereby imposed a license tax of $100.00 per year upon the owner of each motor vehicle located within the City, which motor vehicle does not display current license plates and which is not otherwise by law exempt from the display of such license plates as set out in subsection (b) of this section.

(b) This tax shall not apply to the following:

(1) Motor vehicles which are exempted from the requirements of displaying such license plates under Code of Virginia, Title 46.2, Ch. 6, Art. 6 (Code of Virginia, § 46.2-662 et seq.), or Code of Virginia, § 46.2-1554 or 46.2-1555;

(2) Motor vehicles which are in a public dump or landfill;

(3) Motor vehicles which are in an automobile graveyard as defined in Code of Virginia, § 33.2-804 or other applicable section of the Code of Virginia;

(4) Motor vehicles which are in the possession of a licensed junk dealer or licensed motor vehicle dealer;

(5) Motor vehicles which are being held or stored by or at the discretion of any governmental authority;

(6) Motor vehicles which are owned by a member of the Armed Forces on active duty;

(7) Motor vehicles which are regularly stored within a structure; or

(8) A vehicle placed on private property for a period not to exceed 60 days for the purpose of removing parts for the repair of another vehicle.

(Code 1993, § 28-91; Code 2004, § 102-121; Code 2015, § 27-105)

Cross reference—Taxation, Ch. 26.

Sec. 27-106. Operating vehicle without paying tax or displaying license decal.

(a) Every person operating or causing to be operated a vehicle upon the City streets without paying the license tax imposed in Section 27-105 and displaying thereon a decal, as provided for under Section 26-885, shall, upon conviction, be guilty of a Class 4 misdemeanor.

(b) Every person receiving written notice from a police officer or police support officer, such notice in a form approved by the Chief of Police, of violation of this section may waive the right to appear in court and be formally tried for the offense set forth in the written notice, and may appear in the Office of the Division of Collections of the Department of Finance. Upon proof of the proper purchase of the decal for the particular vehicle or upon the purchase of the required decal, such person may make voluntary payment in the amount of $100.00 by check, draft or money order to the cashier.

(Code 1993, § 28-92; Code 2004, § 102-122; Code 2015, § 27-106)

Secs. 27-107—27-125. Reserved.

ARTICLE V. OPERATION OF VEHICLES GENERALLY

DIVISION 1. GENERALLY

Sec. 27-126. Parades, convoys and funeral processions.

Vehicles in parades, convoys and funeral processions shall be driven as near to the right-hand edge of the highway and as close to the vehicle ahead as is practicable and safe and shall be identified by such method or means as shall be designated by regulation adopted by the Chief. No driver of any vehicle not in such parade, convoy or funeral procession shall drive between the vehicles identified by such method or means as comprising a parade, convoy or funeral procession, except at intersections where traffic is controlled by traffic control signals or police officers.

(Code 1993, § 28-111; Code 2004, § 102-156; Code 2015, § 27-126; Ord. No. 2004-348-307, § 1, 11-10-2003)

State law reference—Right-of-way of United States forces, troops, National Guard, etc., Code of Virginia, § 46.2-827; right-of-way for funeral processions under police escort, Code of Virginia, § 46.2-828.

Sec. 27-127. Operation of electric personal assistive mobility devices, motorized skateboards or scooters, and electric power-assisted bicycles on public streets; safety equipment required.

(a) Every person 14 years of age or younger shall wear a protective helmet that at least meets the Consumer Product Safety Commission standard whenever riding or being carried on a bicycle, an electric personal assistive mobility device, a toy vehicle, or an electric power-assisted bicycle on any highway as defined in Code of Virginia, § 46.2-100, sidewalk, or public bicycle path.

(b) Violation of this section shall be punishable by a fine of $25.00. However, such fine shall be suspended:

(1) For first-time violators; and

(2) For violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by this section.

(Code 1993, § 28-112; Code 2004, § 102-157; Code 2015, § 27-127; Ord. No. 2006-207-229, § 2, 9-11-2006)

State law reference—Authority for above section, Code of Virginia, § 46.2-906.1.

Sec. 27-128. Operation of electric personal assistive mobility devices, motorized skateboards or scooters, motor-driven cycles and electric power-assisted bicycles on sidewalks and crosswalks where such operation is prohibited.

(a) It shall be unlawful for a person to operate an electric personal assistive mobility device, a motorized skateboard or scooter, motor-driven cycle or electric power-assisted bicycle, as defined in Code of Virginia, § 46.2-100, on a sidewalk or in a crosswalk where such operation is prohibited and where signs indicating such prohibition are conspicuously posted in the general area.

(b) Violation of this section shall be a civil penalty, punishable by a fine of not more than $50.00.

(Code 2004, § 102-157.1; Code 2015, § 27-128; Ord. No. 2006-207-229, § 3, 9-11-2006)

State law reference—Authority for above section, Code of Virginia, § 46.2-904.

Sec. 27-129. Blocking intersections.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Code 1993, § 28-113; Code 2004, § 102-158; Code 2015, § 27-129)

Sec. 27-130. Driving, riding or walking over newly made pavements or freshly painted markings.

No person shall drive any vehicle, ride any animal or walk over any newly made pavement or freshly painted marking on any highway when a barrier or sign is in place warning persons not to drive over such pavement or marking or when a sign is in place stating that the street or any portion thereof is closed.

(Code 1993, § 28-114; Code 2004, § 102-159; Code 2015, § 27-130)

Sec. 27-131. Traffic signal enforcement program.

(a) *Establishment.* There is hereby established a traffic signal enforcement program pursuant to and in accordance with Code of Virginia, § 15.2-968.1. The program shall include the installation and operation of traffic light signal violation monitoring systems in a number up to the maximum number of traffic light signal violation monitoring systems permitted by State law. No traffic light signal violation monitoring system shall be implemented at an intersection until all prerequisites for the implementation of such traffic light signal violation monitoring system at such intersection have been fulfilled.

(b) *Implementation.* The Chief Administrative Officer shall:

(1) Have the authority to implement the provisions of this section;

(2) Promulgate the rules and regulations necessary to administer the traffic signal enforcement program in compliance with all requirements of Code of Virginia, § 15.2-968.1 and this section; and

(3) Be responsible for the compliance of all aspects of the traffic signal enforcement program with applicable State law.

(c) *Private contractor.* The City may enter into an agreement with a private entity for the installation and operation of traffic light signal violation monitoring systems and related services as permitted by Code of Virginia, § 15.2-968.1(I). However, any such agreement shall be:

(1) Procured only in accordance with the requirements of Chapter 21; and

(2) Subject to the restrictions imposed by Code of Virginia, § 15.2-968.1(I).

(d) *Penalties.*

(1) *For failure to comply with traffic light signal.* The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to Code of Virginia, § 15.2-968.1 and this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within the City. No monetary penalty imposed under this section shall exceed $50.00, nor shall it include court costs.

(2) *For disclosure of personal information.* Any person who discloses personal information collected by a traffic light signal violation monitoring system in violation of the provisions of Code of Virginia, § 15.2-968.1(H) shall be subject to a civil penalty of $1,000.00.

(Code 2004, § 102-162; Code 2015, § 27-131; Ord. No. 2007-179-156, § 1, 6-25-2007)

Secs. 27-132—27-160. Reserved.

DIVISION 2. RECKLESS DRIVING, SPEEDING

Sec. 27-161. Temporary reduction of speed limits.

The Chief of Police is authorized to reduce, for a temporary period not to exceed 60 days, without engineering and traffic investigation, the speed limit on any portion of any highway on which work is being performed or where the highway is under construction or repair.

(Code 1993, § 28-131; Code 2004, § 102-186; Code 2015, § 27-161)

State law reference—Authority to alter speed limits, Code of Virginia, § 46.2-1300(A)(1).

Sec. 27-162. Special speed limitations on bridges, causeways or viaducts.

It shall be unlawful to drive any motor vehicle, trailer or semitrailer upon any public bridge, causeway or viaduct at a speed exceeding that indicated as a maximum by signs posted thereon or at its approach by or upon the authority of the Chief.

(Code 1993, § 28-132; Code 2004, § 102-187; Code 2015, § 27-162)

State law reference—Similar provisions, Code of Virginia, § 46.2-881.

Sec. 27-163. Enhanced speeding penalty on certain residential streets; signs.

(a) *Purpose.* The purpose of this section is to implement the enhanced speeding penalties authorized by Code of Virginia, § 46.2-878.2 for operation of a motor vehicle in excess of the maximum speed limit on certain residential streets.

(b) *Applicability.* The provisions of this section shall apply to all streets, highways and other public ways or portions thereof located within residential districts of the City as set forth in Chapter 30 for which:

(1) The City has determined that the 85th percentile speed on such street, highway or other public way or portion thereof is ten miles per hour greater than the posted speed limit;

(2) The City has received either a petition requesting the application of the provisions of this section containing the verifiable signatures of 67 percent of the residents living on such street, highway or other public way or portion thereof or a written request for the application of the provisions of this section to a specified street, highway or other public way or portion thereof signed by the Council member representing the Council district in which such street, highway or other public way or portion thereof is located;

(3) The City Council has adopted a resolution authorizing the placement of signs on such street, highway or other public way or portion thereof pursuant to this section; and

(4) The City has placed signs on such street, highway or other public way or portion thereof indicating the maximum speed limit along with the penalty prescribed in subsection (d) of this section pursuant to the normal criteria for the placement of speed limit signs used by the Department of Public Works.

(c) *Violation.* Operation of any motor vehicle in excess of a maximum speed limit established for a highway in a residence district of the City, when indicated by signs placed in accordance with the provisions of this section, shall be unlawful and shall constitute a violation of this section.

(d) *Penalty*. Violation of this section shall constitute a traffic infraction punishable by a fine of not more than $200.00, in addition to other penalties provided by law.

(Code 2004, § 102-188; Code 2015, § 27-163; Ord. No. 2004-144-157, § 1, 6-14-2004)

Secs. 27-164—27-194. Reserved.

ARTICLE VI. STOPPING, STANDING AND PARKING*

***State law reference—**Parking and stopping on highway, Code of Virginia, § 46.2-888 et seq.; local parking regulations, Code of Virginia, § 46.2-1220.

DIVISION 1. GENERALLY

Sec. 27-195. Appointment of persons to enforce certain parking regulations.

The Chief is authorized to put into effect the regulations contained in Sections 27-197, 27-208, 27-209, 27-214, 27-215 and 27-216 by the appointment of persons to enforce the sections in addition to the regular police officers of the City.

(Code 1993, § 28-247; Code 2004, § 102-277; Code 2015, § 27-195)

Sec. 27-196. Restricted and no parking areas generally.

(a) The Chief of Police is hereby authorized and directed to make, promulgate and enforce rules and regulations for the parking or stopping of vehicles upon the highways; to classify vehicles with reference to parking or stopping; to designate the time, place and manner in which such vehicles may be allowed to park or stop upon the highways; to designate areas for bus stops, taxistands and loading zones; and to revoke, alter or amend such rules and regulations at any time when, in the Chief's opinion, traffic conditions and the use of the highways require. It shall be the duty of the Chief, upon the promulgation of such regulations and before they shall become effective, to give such public notice thereof, by establishing and posting signs or otherwise as may be reasonably adequate to make clear to the operators of vehicles in no parking or restricted parking areas the existence, nature and requirements of such regulations. From and after the effective date of regulations imposed in any area by virtue of this section, it shall be unlawful for any person to stop or park any vehicle in any restricted or prohibited area otherwise than in accordance with these regulations.

(b) In any prosecution charging a violation of any such ordinance, regulation or rule, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such ordinance, regulation or rule, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by Code of Virginia, Title 46.2, Ch. 6 (Code of Virginia, § 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where and for the time during which such violation occurred.

(Code 1993, § 28-201; Code 2004, § 102-221; Code 2015, § 27-196)

State law reference—Parking violation presumption, Code of Virginia, § 46.2-1220.

Sec. 27-197. Parking prohibited in specified places.

(a) No person shall park a vehicle, except as may be permitted in accordance with Chapter 24, Article II, Division 5 or when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) On a crosswalk.

(6) Within 20 feet of a crosswalk at an intersection.

(7) In front of a ramp leading to the crosswalk at an intersection or located at any other point along a curb,

constructed for use of persons with disabilities.

(8) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(9) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.

(10) Within 50 feet of the nearest rail of a railroad grade crossing.

(11) Within 15 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted.

(12) Alongside or opposite any street excavation or obstruction where such parking would obstruct traffic.

(13) On the roadway side of any vehicle parked at the edge or curb of a street.

(14) At any place where official signs prohibit parking or during street cleaning.

(15) At any place where an order, rule, or regulation issued under Section 2-428 prohibits or restricts parking.

(16) On a curb, or with any wheels off of the roadway and on the far side of the curb from the roadway.

(17) On a median.

(18) Within a bicycle lane. For purposes of this subdivision, the term "bicycle lane" has the meaning ascribed to that term in Code of Virginia, § 46.2-100.

(b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful; start or cause to be started the motor of any motor vehicle; or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof or attempt to do so.

(Code 1993, § 28-202; Code 2004, § 102-222; Code 2015, § 27-197; Ord. No. 2016-125, § 1, 5-23-2016; Ord. No. 2018-288, § 2, 1-28-2019; Ord. No. 2019-315, § 1, 12-9-2019)

State law reference—Parking in front of fire hydrant, near street corner, fire station, etc., Code of Virginia, § 46.2-1239.

Sec. 27-198. Parking on private property.

It shall be unlawful for any person to park or store a motor vehicle upon any land required by law to be provided for such purpose or otherwise set apart for parking or storage of motor vehicles, after having been forbidden to do so by the owner, lessee, custodian or other person lawfully in charge of such land, or after having been forbidden to do so by a sign posted on the premises at a place where it may be reasonably seen.

(Code 1993, § 28-203; Code 2004, § 102-223; Code 2015, § 27-198)

State law reference—Similar provisions, Code of Virginia, § 46.2-1215.

Sec. 27-199. Parking in fire lanes.

It shall be unlawful for any person to park a motor vehicle in any lane marked and designated as a fire lane within or adjacent to a parking area or parking lot that is open to the public and which lot is designed to accommodate 50 or more vehicles. Any police officer or parking meter attendant employed by the Department of Police may issue a summons, citation, or a written notice charging a person with violation of this section.

(Code 1993, § 28-204; Code 2004, § 102-224; Code 2015, § 27-199)

Sec. 27-200. Spaces reserved for persons with disabilities.

(a) Parking spaces reserved for persons with disabilities shall be identified by above-grade signs, as required under Code of Virginia, § 36-99.11, and failure to do so shall be unlawful.

(b) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under Code of Virginia, § 46.2-1241, or DV disabled parking license plates issued under Code of Virginia, § 46.2-739(B), to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk to park a vehicle in a parking

space so designated except when transporting a person with such a disability in the vehicle.

(c) Any police officer or police support officer of the City may issue a citation or a summons charging a person parking in violation of this section or, if such person is not known, the registered owner of the motor vehicle parked in violation of this section, without the necessity of a warrant being obtained by the owner of the property upon which the parking space is located, if such designated parking place is located upon privately owned property, as authorized in Code of Virginia, Title 46.2, Ch. 12.1 (Code of Virginia, § 46.2-1240 et seq.).

(d) In any prosecution charging a violation of this section, proof that the vehicle described in the complaint, summons, parking ticket, citation or warrant was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, Title 46.2, Ch. 12.1 (Code of Virginia, § 46.2-1240 et seq.), shall constitute in evidence a prima facie presumption that the registered owner was the person who committed the violation.

(e) Violation of this section shall be punishable by a fine of not more than $200.00; provided, however, any person receiving a citation may waive written appearance upon the voluntary payment of the sum of $200.00 to the cashier, Parking Violations Section, Finance Department, within five working days after receipt of such citation as printed in detail on the reply mail envelope attached to such citation.

(Code 1993, § 28-205; Code 2004, § 102-225; Code 2015, § 27-200; Ord. No. 2009-20-41, § 1, 3-23-2009; Ord. No. 2009-187-208, § 1, 11-23-2009)

State law reference—Parking for persons with disabilities, Code of Virginia, § 46.2-1240 et seq.

Sec. 27-201. Parking for disabled persons in time-restricted or metered spaces in certain areas.

As authorized by Code of Virginia, § 46.2-1245(C), the provisions of Code of Virginia, § 46.2-1245 shall not apply within the portion of the City bounded by Interstate 95 to the north and east, the Downtown Expressway to the south and Belvidere Street to the west.

(Code 2004, § 102-225.1; Code 2015, § 27-201; Ord. No. 2013-108-74, § 1, 5-28-2013; Ord. No. 2018-233, § 1, 1-28-2019)

Sec. 27-202. Parking in alleys.

No person shall park a vehicle in a public alley in such a manner as to leave available less than ten feet of the width of the alley for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within a public or private alley in such a position as to block the driveway, drive, garage or any type entrance to any abutting property, where the owner of such abutting property has the right to use such alley as a means of access to and from a highway and cannot physically enter such person's property due to the parked vehicle.

(Code 1993, § 28-206; Code 2004, § 102-226; Code 2015, § 27-202)

Sec. 27-203. Parking of certain large vehicles.

(a) It shall be unlawful for the owner, operator or driver of any motor vehicle with an empty weight exceeding 6,500 pounds, any trailer, semitrailer or any motor home to park such or permit such to be parked on any street or in any alley that is along a primarily residential or mixed residential-commercial block. This subsection shall not apply to:

(1) Motor homes, motor vehicles, semitrailers or trailers which are:

   a. Being actively loaded or unloaded;

   b. Used by persons issued permits from the Chief of Police;

   c. Used by persons to whom the Department of Public Works has issued permits for work in the streets;

(2) Motor vehicles or trailers which are parked along a primarily residential or mixed residential-commercial block while the owner, operator or driver is engaged in the actual performance of contractual work at a nearby property; or

(3) Passenger cars or pickup trucks used exclusively for noncommercial purposes. Proof that a passenger car or pickup truck described in a complaint, summons or warrant has an empty weight exceeding 6,500 pounds shall constitute in evidence a prima facie presumption that such passenger car or pickup truck is

not used exclusively for noncommercial purposes.

(b) It shall be unlawful for the owner, operator or driver of any motor home, motor vehicle, semitrailer or trailer with an empty weight exceeding 6,500 pounds to park such or to permit such to be parked within 75 feet of an intersection in any part of the City.

(Code 2004, § 102-227; Code 2015, § 27-203; Ord. No. 2004-297-289, §§ 1, 2, 11-8-2004)

Sec. 27-204. Right to parallel parking space.

Whenever a driver of a vehicle pulls up parallel with a parked vehicle for the purpose of backing into the parking space behind such parked vehicle, such driver shall have the first privilege of using the parking space. No driver of any other vehicle shall drive a vehicle into such space or stop immediately behind the first vehicle in such a way as to block access to the parking space.

(Code 1993, § 28-208; Code 2004, § 102-228; Code 2015, § 27-204)

Sec. 27-205. Parking trucks beside railroad cars parked on public right-of-way.

It shall be unlawful to park any truck beside a railroad car parked on any public right-of-way, without a special permit from the Chief, which shall be issued only in cases of extreme hardship and physical necessity, for the purpose of loading or unloading.

(Code 1993, § 28-209; Code 2004, § 102-229; Code 2015, § 27-205)

Sec. 27-206. Parking vehicles on highways by parking lot operators.

It shall be unlawful and shall constitute a violation of this chapter for any person who operates a lot or place for the storage or parking of vehicles for others, whether compensated therefor or not, and for any agent or employee of such person to store, place or park any vehicle, after it has been delivered into any such person's care, custody or control, upon any highway or to order, cause or permit such to be done. Every such person and every such agent or employee who violates this section shall be punished as provided in Section 27-42.

(Code 1993, § 28-210; Code 2004, § 102-230; Code 2015, § 27-206)

Sec. 27-207. Restricted stopping or parking on highways where funerals conducted.

In order to alleviate hazardous traffic conditions incident to the conduct of funerals; to provide a means for the orderly interment of the dead; and to preserve the safety, peace, good order, comfort, convenience and welfare of the inhabitants of the City, the Chief shall, by appropriate rules and regulations of general application, restrict the parking or stopping of vehicles on the highways at places where funerals are conducted. Such rules and regulations shall designate the areas in the highways where such restrictions shall apply and shall prescribe the time when such restrictions shall be in effect. The Chief shall cause appropriate signs to be placed in such areas, which shall be of such character as to readily inform an ordinarily observant person of the existence of such rules and regulations. It shall be unlawful for any person to violate such rules and regulations and, upon conviction thereof, such person shall be punished as provided by Section 27-42.

(Code 1993, § 28-211; Code 2004, § 102-231; Code 2015, § 27-207)

Sec. 27-208. Parking for sale of vehicle.

It shall be unlawful for any person to park or place any automobile, truck, trailer or other vehicle upon or in any street, alley or parkway for the purpose of selling or offering the automobile, truck, trailer or other vehicle for sale or rent.

(Code 1993, § 28-212; Code 2004, § 102-232; Code 2015, § 27-208)

Sec. 27-209. Stopping for advertising purposes.

It shall be unlawful to stop a vehicle at any time upon the highway for the purpose of advertising any article of any kind or to display thereupon advertisements of any article or advertisement for the sale of the vehicle itself.

(Code 1993, § 28-213; Code 2004, § 102-233; Code 2015, § 27-209)

Sec. 27-210. Washing or greasing vehicle.

No person shall, for compensation, wash, polish or grease a vehicle upon a highway or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished or greased for compensation upon a highway or sidewalk.

(Code 1993, § 28-214; Code 2004, § 102-234; Code 2015, § 27-210)

Sec. 27-211. Washing vehicles in public parks, parkways, playfields or playgrounds.

No person shall use any water in any public park, parkway, playfield or playground for washing vehicles. However, vehicles owned by the City may be washed in places in public parks set apart for the purpose in connection with the operation and maintenance thereof.

(Code 1993, § 28-215; Code 2004, § 102-235; Code 2015, § 27-211)

Sec. 27-212. Repairing motor vehicles.

No person, nor the owner or the person having the control of a motor vehicle shall repair or permit such motor vehicle to be repaired upon a highway, street, alley or sidewalk of the City. However, repairs of an emergency nature to enable the removal from a highway, street, alley or sidewalk of a disabled vehicle shall not be deemed a violation of this section.

(Code 1993, § 28-216; Code 2004, § 102-236; Code 2015, § 27-212)

Sec. 27-213. Angle parking.

Notwithstanding any other section of this chapter, the Chief may, when the public interest so requires, provide for angle parking on any street or portion thereof; provided, however, such streets are marked so as to apprise an ordinarily observant person of the regulation.

(Code 1993, § 28-217; Code 2004, § 102-237; Code 2015, § 27-213)

Sec. 27-214. General manner of using loading zones.

No person shall stop, stand or park a vehicle for any purpose or length of time longer than 30 minutes, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place properly marked as a curb loading zone during hours when the provisions applicable to such zones are in effect.

(Code 1993, § 28-218; Code 2004, § 102-238; Code 2015, § 27-214)

Sec. 27-215. Use of loading zones by passenger vehicles.

The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose for and while actually engaged in loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

(Code 1993, § 28-219; Code 2004, § 102-239; Code 2015, § 27-215)

Sec. 27-216. Manner of using bus stops and taxicab stands.

No person shall stop, stand or park a vehicle, other than a bus in a bus stop or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and appropriately signed. However, the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Code 1993, § 28-220; Code 2004, § 102-240; Code 2015, § 27-216)

Sec. 27-217. Barriers around places used for parking or storage of vehicles.

Whenever the Chief finds that, in providing, maintaining or operating places for the parking or storage of vehicles, the movement of vehicles to or from highways or both causes congestion therein or is hazardous to pedestrian or vehicular traffic on the highways abutting such places, the Chief shall require the persons providing, maintaining or operating such places to erect and thereafter maintain barriers at or near such places as shall be specified by the Chief to permanently and effectively prevent such congestion or hazards as long as such places are so provided, maintained, or operated. It shall be unlawful for any such person to fail, refuse or neglect to comply

with such requirements or orders of the Chief.

(Code 1993, § 28-221; Code 2004, § 102-241; Code 2015, § 27-217)

Sec. 27-218. Parking violations; written notices; issuance of warrant or summons; penalty for noncompliance.

(a) Every person receiving written notice of a parking violation, issued by a duly authorized law enforcement officer or agent of the City, may waive the right to appear and to be formally tried for the offense charged in the notice, upon payment of the fine set forth in subsection (b) of this section and specified in the notice. Payment shall be by check, draft or money order, and payment shall be made either:

(1) By presenting the notice and payment in person to the cashier, Parking Violations Section of the Department of Finance, within 15 days after the date on which the notice of a parking violation was issued; or

(2) By placing the notice and payment in the reply envelope to be provided with the notice, and mailing it to the cashier, Parking Violations Section of the Department of Finance.

If the notice and payment are mailed, the reply envelope must be postmarked within 15 days after the date on which the notice of a parking violation was issued.

(b) The following fines shall be imposed for parking violations when a person voluntarily waives the right to appear and be formally tried for the offense charged:

(1) Fine of $25.00.

a. Exceeding the time limit designated on signs, in violation of Section 27-196 or 27-244.

b. Violation of parking meter provisions, in violation of Section 27-245.

c. Parking improperly in a metered on-street parking space, in violation of Section 27-245(c).

d. Parking improperly in a metered off-street parking area, in violation of Section 27-245(d).

e. Parking oversized vehicles improperly in metered spaces, in violation of Section 27-245(e).

f. Parking in a metered or nonmetered parking space, in violation of Section 27-245(f).

g. Parking or stopping on the wrong side of the street, in violation of Code of Virginia, § 46.2-889.

h. Parking more than 18 inches from a curb, in violation of Section 27-221.

(2) Fine of $40.00.

a. Parking in any location in violation of Section 27-197, to include the following places:

1. On a sidewalk.

2. In front of a public or private driveway.

3. Within 15 feet of a fire hydrant.

4. Within 20 feet of a crosswalk at an intersection.

5. Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

6. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.

7. Within 50 feet of the nearest rail of a railroad grade crossing.

8. Within 15 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted.

9. Alongside or opposite any street excavation or obstruction where such parking would obstruct traffic.

10. On the roadway side of any vehicle parked at the edge or curb of a street.
11. At any place where official signs prohibit parking, or during street cleaning.
12. At any place where an order, rule, or regulation issued under Section 2-428 prohibits or restricts parking.
13. On a curb, or with any wheels off of the roadway and on the far side of the curb from the roadway.
14. On a median.

b. Parking in any lane marked and designated as a fire lane, within or adjacent to a parking area or parking lot that is open to the public and which is designed to accommodate 50 or more vehicles, in violation of Section 27-199.

c. Parking so as to block an alley or to block a driveway into an alley, in violation of Section 27-202.

(3) Fine of $55.00. Parking in excess of the time limit designated on signs in a restricted parking district established pursuant to Section 27-279 without a valid parking decal, temporary parking pass or visitor's parking pass for that restricted parking district issued pursuant to Section 27-280.

(4) Fine of $60.00.

a. Parking in a tow-away zone.

b. Parking in a bus zone or taxicab stand, in violation of Section 27-216.

c. Parking in a crosswalk.

d. Parking in an intersection.

e. Parking in a bicycle lane, in violation of Section 27-197.

(5) Fine of $120.00. Parking in violation of Section 27-203.

(6) Fine of $200.00.

a. Parking in handicap zone, in violation of Section 27-200.

b. Parking in front of a ramp constructed for use of handicapped persons, in violation of Section 27-197(a)(7).

(c) Whenever a reply envelope is used for transmitting any notice and payment by mail to the cashier, Parking Violations Section of the Department of Finance, the responsibility for ensuring receipt of the envelope by the cashier shall be that of the person who received the notice of a parking violation.

(d) Any person who receives a notice of parking violation and elects not to waive the right to appear and to be formally tried for the offense charged in the notice shall, within 15 days after the notice was issued, appear before the Clerk of the General District Court, Traffic Division, in order to have such person's case certified for trial. Upon trial and conviction of the offense charged in the notice, such person shall be fined the amount set forth in subsection (b) of this section and specified in the notice.

(e) If any person receives a notice of parking violation and neither submits timely payment of the specified fine in the manner set forth in subsection (a) of this section nor exercises in a timely manner the right to appear and to be formally tried in the manner set forth in subsection (d) of this section, on the 16th day after the date on which the notice of a parking violation was issued, such person shall be liable for the amount of the fine set forth in subsection (b) of this section plus a penalty in the amount of $10.00. Such person shall also pay an additional $10.00 penalty for each 30-day period thereafter until the amount of the fine and all penalties are paid in full. However, for any outstanding parking violation, regardless of when it was issued, the total amount of penalties shall not exceed the amount of the original fine. If the fine and penalty are not paid, the collector of City taxes or a duly designated representative may cause a summons to be issued or pursue any other collection action authorized by law.

(f) Any person who has received a notice of parking violation and who has failed to submit payment in a timely manner under subsection (a) or (e) of this section or who has failed in a timely manner to exercise the right provided under subsection (d) of this section shall, upon conviction, be subject to the penalties provided under law

for a traffic infraction.

(Code 1993, § 28-223; Code 2004, § 102-243; Code 2015, § 27-219; Ord. No. 2003-303-261, § 1, 9-22-2003; Ord. No. 2004-297-289, § 3, 11-8-2004; Ord. No. 2005-303-259, § 1, 11-28-2005; Ord. No. 2009-20-41, § 1, 3-23-2009; Ord. No. 2009-187-208, § 2, 11-23-2009; Ord. No. 2010-55-52, § 1, 3-22-2010; Ord. No. 2013-12-46, § 2, 4-8-2013; Ord. No. 2013-44-49, § 1, 4-8-2013; Ord. No. 2016-125, § 1, 5-23-2016; Ord. No. 2018-087, § 1, 5-14-2018; Ord. No. 2019-065, § 1, 5-13-2019; Ord. No. 2019-315, § 1, 12-9-2019)

Sec. 27-219. Duties of cashier in Parking Violations Section; certification to General District Court.

The cashier in the Parking Violations Section of the Collections Division, Department of Finance, shall collect and account for penalties paid by persons issued parking citations for violating this article. The cashier of the Parking Violations Section is also authorized to collect and disburse such other penalties for parking violation citations or take such other action with regard to such other citations as provided in Code of Virginia, § 46.2-1225. The Director of Public Works shall, in writing, certify contested parking citations to the General District Court of the City and shall cause to be issued complaints, summonses or warrants for delinquent parking citations.

(Code 1993, § 28-224; Code 2004, § 102-244; Code 2015, § 27-220; Ord. No. 2014-241-220, § 1, 12-8-2014)

Sec. 27-220. Penalty for violation of division.

Unless otherwise provided, any person violating this division shall, upon conviction thereof, be subject to the penalties provided under law for a traffic infraction.

(Code 1993, § 28-225; Code 2004, § 102-245; Code 2015, § 27-221)

State law reference—Similar provisions, Code of Virginia, § 46.2-113.

Sec. 27-221. Parking parallel to a curb.

No person shall park a vehicle parallel to a curb on any street unless the curbside wheels of such vehicle are no more than 18 inches from such curb. This section shall not apply to persons parking vehicles on roadways without curbs.

(Code 2004, § 102-246; Code 2015, § 27-222; Ord. No. 2013-12-46, § 1, 4-8-2013)

State law reference—Location of parked vehicles, Code of Virginia, § 46.2-889.

Sec. 27-222. Parking of motorcycles by attachment to trees on City-owned property prohibited.

It shall be unlawful for any person to park any motorcycle in such a manner that such motorcycle is chained or otherwise attached to any tree on City-owned property. Any police officer may impound any motorcycle that is so parked.

(Code 2004, § 102-246.1; Code 2015, § 27-223; Ord. No. 2013-84-60, § 1, 4-22-2013)

Sec. 27-223. Attachment of mopeds to trees on City-owned property prohibited; impoundment.

It shall be unlawful for any person to attach any moped to any tree on City-owned property. Any police officer may impound any moped that is attached to any tree on City-owned property. If any such moped is not claimed by the owner within 30 days from the date it was impounded, in accordance with Section 27-390, it may be either donated to a charitable organization by the Chief of Police or sold by the Director of Procurement Services.

(Code 2004, § 102-247; Code 2015, § 27-224; Ord. No. 2013-84-60, § 1, 4-22-2013)

Sec. 27-224. Impoundment of mopeds.

(a) Any police officer may impound any moped that is inoperable due to missing or broken components necessary for operation and that is attached to posts, signs or other property on City-owned property for more than 72 hours. If any such moped is not claimed by the owner within 30 days from the date it was impounded, in accordance with Section 27-390, it may be either donated to a charitable organization by the Chief of Police or sold by the Director of Procurement Services.

(b) Any police officer may impound any moped in operating condition that is attached for more than ten days to posts, signs or other property on City-owned property. If any such moped is not claimed by the owner within 30 days from the date it was impounded, in accordance with Section 27-390, it may be either donated to a charitable

organization by the Chief of Police or sold by the Director of Procurement Services.

(Code 2004, § 102-248; Code 2015, § 27-225; Ord. No. 2013-84-60, § 1, 4-22-2013)

Secs. 27-225—27-243. Reserved.

DIVISION 2. PARKING METERS*

***State law reference—**Authority of City to install, maintain, etc., parking meters, Code of Virginia, § 46.2-1220.

Sec. 27-244. Authority of Chief of Police.

Wherever parking meters have been installed and are maintained upon the highways of the City for the regulation of parking of vehicles thereon, the Chief shall determine the length of time in minutes or hours during which any vehicle may be parked on any such highway. The Chief shall make, promulgate and enforce rules and regulations as to the parking of vehicles on such highways, and it shall be unlawful for any person to park any vehicle on any such highway for a longer period of time than that fixed by the Chief or to violate any such rule or regulation made and promulgated by the Chief. Upon conviction thereof, every such person shall be punished as provided in Section 27-42.

(Code 1993, § 28-241; Code 2004, § 102-271; Code 2015, § 27-244)

Sec. 27-245. Installation of meters; charges; manner of parking.

(a) The City may cause a parking meter to be installed adjacent to a parking space along a highway, street or City-operated off-street parking facility for the purpose of restricting and regulating the time in which and for which the operator or person having a vehicle or motorcycle under the operator's or person's control may use such space. The mandatory charge for using such on-street and off-street parking spaces shall be $1.50 per hour. To acquire the maximum amount of parking time available from a meter, the motorist or motorcycle operator shall deposit coins or otherwise make payment in accordance with this section. The deposit of coins other than the exact amount shall obtain periods of time equal to that which might be acquired by depositing the next lowest denomination of coins indicated on the parking meter rate plate.

(b) No person shall permit a vehicle under such person's control to be parked in any parking meter space during the restricted and regulated time applicable to the parking meter zone in which such meter is located while the parking meter for the space indicates by signal that the lawful parking time has expired. This shall not apply during the act of parking or the necessary time which is required to immediately thereafter deposit the prescribed coins in or otherwise make payment for such meter.

(c) A metered on-street parking space is the area parallel and adjacent to the curb between parking meter posts. Only one vehicle or motorcycle shall be placed in each on-street metered parking space. Each vehicle shall be parked so that it is an equal distance between parking meter posts, except for motorcycles which may park perpendicular to the curb or roadway edge between parking meter posts. When a rear parking meter post does not exist, the vehicle shall be parked so that the front of the vehicle is adjacent to the front meter post.

(d) A metered off-street parking space is a public parking area located off the street in either a surface lot or a parking structure or a building. Motorists shall deposit monetary coins in or otherwise make payment for the parking meter associated with the off-street space. Only one vehicle or motorcycle shall be parked in each off-street metered parking space. Vehicles shall be properly parked either perpendicular or parallel or in any other position so designated by regulatory traffic signage whether a parking meter exists or not.

(e) Operators of oversized vehicles, such as large commercial trucks, limousines, recreational vehicles, with or without other vehicles or trailers in tow, or standard vehicles, with other vehicles or trailers in tow, shall pay the parking meter fees for all metered parking spaces either fully or partially occupied by such vehicles.

(f) No person shall permit a vehicle or motorcycle under the person's control to be parked for a time period longer than that specified on regulatory traffic signs or parking meters without either:

(1) Moving the vehicle a minimum of 500 feet from the parking space originally occupied; or

(2) Vacating the original parking space for a minimum time period of ten minutes.

(g) This section shall not apply to drivers of commercial or delivery vehicles who use a parking meter space

for the purpose of loading, unloading or making deliveries. However, such commercial or delivery vehicles shall not be parked for periods that exceed the maximum amount of parking time allowed for such parking meter space.

(Code 1993, § 28-242; Code 2004, § 102-272; Code 2015, § 27-245; Ord. No. 2013-99-99, §§ 1, 2, 5-28-2013; Ord. No. 2016-046, § 1, 5-13-2016; Ord. No. 2018-088, § 1, 5-14-2018)

Sec. 27-246. Extension of legal parking time.

It shall be unlawful for any person to deposit or cause to be deposited in a parking meter any coin for the purpose of extending the parking time beyond the time allowed under the rules and regulations promulgated by the Chief. Upon conviction of a violation of this section, the defendant shall be punished as provided in Section 27-42.

(Code 1993, § 28-243; Code 2004, § 102-273; Code 2015, § 27-246)

Sec. 27-247. Evidence of illegal parking.

Every vehicle parked on any highway at or near a meter on which the indicator does not register the deposit of the coin prescribed in Section 27-245 shall be prima facie evidence that it was parked in violation of this division.

(Code 1993, § 28-244; Code 2004, § 102-274; Code 2015, § 27-247)

Sec. 27-248. Overtime parking.

Whenever parking is limited to a specified length of time, it shall be a separate offense for each period in excess of that authorized that a vehicle is permitted to stand in the same parking space during the same day. However, no more than three violations for overtime parking shall be charged against the driver of a vehicle for permitting it to stand in the same parking place during the same day.

(Code 1993, § 28-245; Code 2004, § 102-275; Code 2015, § 27-248)

Sec. 27-249. Notice affixed on illegally parked vehicle; failure to respond to notice.

Whenever a motor vehicle without a driver is found parked or stopped in violation of this division, the officer finding such vehicle shall take its license number and any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a notice, in writing, on a form prescribed by the Chief, to the driver to answer to the charge against the driver within five working days at the time and place specified in the notice. If the driver does not appear in response to the notice, the cashier, Parking Violations Section of the Department of Finance, shall cause to be issued to the owner of the motor vehicle a summons to appear in the General District Court to show cause, if any, why the owner should not be dealt with according to law.

(Code 1993, § 28-246; Code 2004, § 102-276; Code 2015, § 27-249)

Sec. 27-250. Exceptions for certain vehicles used by members of State General Assembly.

No motor vehicle that bears a State license plate with the words "Delegate" or "Senator" or that bears a parking permit issued by the State with the words "Member of Virginia General Assembly" shall be subject to this division or to any rule or regulation promulgated under this division.

(Code 1993, § 28-248; Code 2004, § 102-278; Code 2015, § 27-250)

Secs. 27-251—27-260. Reserved.

DIVISION 3. TEMPORARY RESTRICTION OF ACCESS TO METERED PARKING

Sec. 27-261. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cover means any bag, sack, or other material placed on or over a meter that purports to restrict or has the effect of restricting access to the meter or use of a parking space that the meter regulates.

Director means the Director of Public Works or a subordinate thereof designated in writing by the Director of Public Works.

Event means an entertainment, film production, governmental, or recreational activity.

Meter means any parking meter or pay station installed in the right-of-way by the City.

Person has the meaning ascribed to that word by Section 1-2.

(Code 2015, § 27-261; Ord. No. 2016-304, § 1, 2-13-2017)

Sec. 27-262. Implementation.

The director may establish and, from time to time, modify rules, regulations, policies, and procedures to implement this division, provided such rules, regulations, policies, and procedures are consistent with this Code and any other applicable law.

(Code 2015, § 27-262; Ord. No. 2016-304, § 1, 2-13-2017)

Sec. 27-263. Prohibition.

It shall be unlawful for any person to place a cover on or over any meter without a permit obtained pursuant to this division.

(Code 2015, § 27-263; Ord. No. 2016-304, § 1, 2-13-2017)

Sec. 27-264. Permit.

Any person may apply for a permit by submitting a completed application form prescribed by the director. At the time the person submits the application form, the person shall pay a fee equal to 50 percent of the daily meter for each parking space included in the permit multiplied by the number of days for which the permit is sought. The permit will authorize such person to place a cover on or over a meter and to use a parking space regulated by that meter. A permit may include multiple meters and parking spaces. A permit provides no property interest in any parking space or any other part of the right-of-way.

(Code 2015, § 27-264; Ord. No. 2016-304, § 1, 2-13-2017)

Sec. 27-265. Permit—Issuance.

(a) The director shall issue the permit only if the director determines that:

(1) The person's application is complete and materially truthful.

(2) The person applying for the permit will use the parking space for an approved use as set forth in subsection (b) of this section.

(3) The proposed use of the parking spaces for which the person seeks the permit will not inconvenience the public in its use of the right-of-way.

(b) The following are approved uses:

(1) The person is engaged in construction, maintenance, repair, or utility work on property within one block of the parking space for which the permit is sought.

(2) The person is engaged in moving personal property from or to a property located on the block on which the parking space for which the permit is sought is situated.

(3) The person is organizing or controls an event occurring on property within one block of the parking space for which the permit is sought.

(Code 2015, § 27-265(1); Ord. No. 2016-304, § 1, 2-13-2017)

Sec. 27-266. Permit —Revocation.

The director may revoke the permit upon written notice to the person who holds the permit if the director determines any of the following:

(1) The permit was issued in error.

(2) The person's use of the permit is having unanticipated adverse effects on pedestrian or vehicular traffic.

(3) The person has allowed the parking of vehicles unrelated to the approved use for which the permit was issued in the parking spaces to which the permit applies.

In the case of a revocation pursuant to subsections (1) and (2) of this section, the City shall refund the portion of the fees paid for the permit attributable to the number of days for which the permit could not be used due to the revocation. In the case of a revocation pursuant to subsection (3) of this section, the City shall not refund any fees paid for the permit.

(Code 2015, § 27-265(2); Ord. No. 2016-304, § 1, 2-13-2017)

Sec. 27-267. Hearing.

A person who applied for or holds a permit and who is aggrieved by the decision of the City, its officers, or its employees with respect to a permit application, revocation, or other action under this division shall, upon written request, be entitled to a hearing to be conducted by the Chief Administrative Officer, who shall establish rules for hearings. The decision of the Chief Administrative Officer shall be final.

(Code 2015, § 27-266; Ord. No. 2016-304, § 1, 2-13-2017)

Secs. 27-268—27-278. Reserved.

DIVISION 4. RESIDENTIAL RESTRICTED PARKING DISTRICTS

Sec. 27-279. Criteria for establishment.

(a) The City Council may establish, change or terminate residential restricted parking districts within the City pursuant to the following criteria. Upon receiving an application from a neighborhood association or civic association for the establishment of a residential restricted parking district, the Director of Public Works shall administer the application process. The application for the establishment of a new residential restricted parking district shall include all of the following information:

(1) Written documentation that outlines the proposed parking district, which should be a minimum of ten contiguous block faces;

(2) Written documentation from a majority of the affected associations representing the properties within the proposed district and petitions from a majority of the property owners within the proposed district supporting the creation of the outlined parking district; provided, however, that, where written documentation is submitted indicating that fewer than 60 percent of the properties within the proposed district are owner-occupied, then such approval shall be required from a majority of the associations and a majority of the occupants of the properties in such proposed district rather than from a majority of the property owners in the proposed district; and

(3) Written documentation that the proposed district is residential and that other land uses, either within the district or adjacent to the district, are impacting the available on-street and off-street parking for use by the district residents.

(b) Upon receipt and verification of the information required in the application pursuant to subsection (a) of this section, the Director of Public Works shall make a determination as to whether:

(1) At least 75 percent of the curb parking spaces in the defined area of the proposed residential restricted parking district are utilized during peak periods; and

(2) At least 35 percent of the curb parking spaces in the defined area of the proposed residential restricted parking district are utilized by persons who do not reside within the district who are parked for two or more hours.

If the Director of Public Works determines that these two criteria are met, the Director shall prepare an ordinance to establish a residential restricted parking district. The Director shall make the required determination and, if applicable, prepare the required ordinance within 90 days of receipt of a complete application. Following approval of a district, the Director of Public Works shall develop an implementation plan and administer the implementation of the issuance of the permits as prescribed in the ordinance that establishes the district within 90 days of the adoption of the ordinance to residents of the district. The Director of Public Works shall cause the parking regulations in the district to be changed to reflect the change in restricted parking.

(c) Once approved, 12 months must elapse before any new application to make significant modification to

or terminate a residential restricted parking district will be considered. Upon receiving an application to modify an existing residential restricted parking district meeting the requirements of subsection (a) of this section and determining that the two criteria set forth in subsection (b) of this section are met, the Director of Public Works may modify the boundary for existing residential parking permit districts. Applications to modify the Carver Residential Restricted Parking District must be received by September 30, and modifications to the district based on applications not received by this deadline will not be effective until the second January 1 following that deadline. Applications to modify the Fan Residential Restricted Parking District must be received by March 31, and modifications to the district based on applications not received by this deadline will not be effective until the second July 1 following that deadline.

(Code 1993, § 28-263; Code 2004, § 102-301; Code 2015, § 27-279; Ord. No. 2004-179-175, § 1, 6-28-2004; Ord. No. 2007-300-262, § 1, 11-26-2007; Ord. No. 2010-93-79, § 1, 5-10-2010; Ord. No. 2014-66-116, § 3, 5-27-2014)

Sec. 27-280. Parking permits, fees; violation and penalties.

(a) For the purpose of this section, the term "resident" shall be defined as the record owner or renter of a property located within a residential restricted parking district and members of the owner's or renter's immediate family:

(1) Who are licensed drivers; and

(2) Whose domicile is the address for which they are seeking to obtain the parking permit.

(b) Residents may purchase a parking permit for use in a restricted parking district of the City issued under such rules, regulations and orders as may be promulgated by the Director of Public Works pursuant to Section 2-428. The annual fee for the permit shall be $25.00. The City shall sell parking permits at City Hall at a location at which the Department of Finance collects payments.

(1) Upon receipt of a written request addressed to the Director of Finance from a neighborhood association or civic association representing all or part of a residential restricted parking district for the City to sell parking permits at one or more locations other than City Hall, the Director of Finance may approve the sale of parking permits at such location or locations, taking into consideration such factors as staffing, available resources, security and other factors involved in and important to the sale of parking permits at such location or locations. The association making the request shall:

a. Arrange for the sales;

b. Be responsible for all costs associated with the sales; and

c. Provide notice of the sales to the residents of the district.

(2) The Director of Finance may require the association to execute an agreement with the City setting forth the conditions under which the Director will approve such a sale as a condition of approving such a sale. The City shall publicize the sale at such location or locations through releases to such media outlets as the City may customarily use to provide information to the public. The fees collected for parking permits and temporary parking passes shall be used by the City in defraying the costs associated with administering restricted parking districts. Parking permits shall be issued on an annual basis as follows:

a. Parking permits for the Fan Residential Restricted Parking District shall be issued for the period commencing at 12:01 a.m. July 1 and expiring at 12:00 midnight June 30 of the following year, and all permits, regardless of the date of issue, other than temporary permits issued under subsection (c) of this section, shall expire at 12:00 midnight on the next June 30 after issuance.

b. Parking permits for the Carver Residential Restricted Parking District shall be issued for the period commencing at 12:01 a.m. January 1 and expiring at 12:00 midnight December 31 of the next calendar year, and all permits, regardless of the date of issue, other than temporary permits issued under subsection (c) of this section, shall expire at 12:00 midnight on December 31 of the calendar year in which they are issued.

(c) All parking permits issued pursuant to this section shall be displayed on all vehicles and motorcycles in such manner as prescribed by the Director of Public Works. All permits must be displayed on the vehicle for which it is purchased no later than the first day of the annual period for which the permit is issued.

(d) The Director of Public Works shall issue temporary parking passes, for a fee of $10.00 per parking pass, to those owning a valid parking permit in a restricted parking district for the sole use of guests of such permit holders. Such temporary parking passes shall be good for a period not exceeding ten days. In addition, the Director of Public Works may issue up to two annual visitor's parking passes per house or building address only to resident property owners who own a valid permit for a fee of $35.00 for each parking pass. Such resident property owners must purchase the annual visitor's parking passes at the same time they purchase the parking permit. No replacement annual visitor passes shall be provided or issued by the City.

(e) Any person convicted of violating this section, by parking in excess of time limits prescribed, shall be punished by a fine issued in accordance with Section 27-218.

(f) Any person who purchases any parking permit under false pretenses, including purchasing a permit for a person who:

(1) Is not qualified to purchase or use the permit;

(2) Allows use by another person of a lawfully acquired permit;

(3) Attaches and uses a permit on a vehicle for which the permit was not issued; or

(4) Attempts to resell, rent or otherwise trade a temporary parking permit or annual visitors pass in any manner whatsoever;

shall be guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed $100.00.

(g) Permits purchased pursuant to this section shall only be issued for vehicles registered with the State Department of Motor Vehicles, if required by law. If the State Department of Motor Vehicles requires a vehicle to be registered with the City, all City taxes and fees must be paid prior to the issuance of a parking permit for such vehicle. However, in addition to the vehicle's registration, all renters must provide the Director of Finance with a valid written lease for property located within a district in order to qualify for a resident permit.

(Code 1993, § 28-264; Code 2004, § 102-302; Code 2015, § 27-280; Ord. No. 2010-93-79, § 1, 5-10-2010; Ord. No. 2014-66-116, § 3, 5-27-2014; Ord. No. 2014-241-220, § 1, 12-8-2014)

Sec. 27-281. Special parking districts program—Established, purpose, goals.

(a) *Established.* There is hereby established a special parking districts program to provide for the expenditure of funds derived from certain parking fines imposed pursuant to Section 27-218(b)(3). The Director of Public Works shall administer the special parking districts program.

(b) *Purpose and goals.* The purpose of this section through Section 27-284 is to set forth the general provisions pursuant to which the Director of Public Works shall administer the special parking districts program. The goals of the program are to ensure proper funding for the permitting process established pursuant to Sections 27-279 and 27-280 for residential restricted parking districts and to improve resident and visitor parking conditions in such districts. The parameters set forth in this section through Section 27-284 shall apply to the program.

(Code 2004, § 102-303; Code 2015, § 27-281; Ord. No. 2011-78-62, § 1, 4-25-2011; Ord. No. 2013-81-69, § 1, 4-22-2013)

Sec. 27-282. Special parking districts program—Permitted expenditures from fund.

(a) There shall be no expenditure from the Special Parking Districts Special Fund except expenditures for the services and activities set forth in subsection (b) of this section used for residential restricted parking districts established pursuant to Section 27-279.

(b) The following services and activities in residential restricted parking districts may be funded by the Special Parking Districts Special Fund:

(1) Providing clearly marked crosswalks.

(2) Providing off-duty police patrols for the purpose of responding to reports of loud noise and other disturbances associated with celebrations and festivities.

(3) Maintaining and improving safety and cleanliness.

(Code 2004, § 102-304; Code 2015, § 27-282; Ord. No. 2011-78-62, § 1, 4-25-2011)

Sec. 27-283. Special parking districts program—Performance measurements.

(a) The Director of Public Works shall conduct a study annually to determine if the program has successfully achieved the goals set forth in Section 27-281 and submit a report of the results of such study to the City Council by no later than September 1 of each year. The report shall include:

(1) Details concerning expenditures from the Special Parking Districts Special Fund;

(2) The sufficiency of the fund to achieve the goals set forth in Section 27-281 and for the services and activities for which monies from the Special Parking Districts Special Fund may be expended in accordance with Section 27-282;

(3) The results of the surveys conducted in accordance with Section 27-284; and

(4) Any recommendations for improvement of the program.

(b) The Director of Public Works shall monitor the use of the Special Parking Districts Special Fund to ensure that there is sufficient funding for the permit process established pursuant to Sections 27-279 and 27-280 for residential restricted parking districts and for the services and activities for which the Special Parking Districts Special Fund may be expended and to ensure that the proceeds from the Special Parking Districts Special Fund are properly allocated in accordance with this Code and other applicable law. In addition, the Director of Public Works shall consider the results of the surveys conducted in accordance with Section 27-284.

(Code 2004, § 102-305; Code 2015, § 27-283; Ord. No. 2011-78-62, § 1, 4-25-2011; Ord. No. 2013-81-69, § 1, 4-22-2013; Ord. No. 2020-201, § 1(27-283), 9-28-2020)

Sec. 27-284. Special parking districts program—Administration.

(a) *Appointment.* The Director of Public Works shall appoint a designee, who may be an employee of the Department of Public Works with other duties, for the purpose of determining if the program has successfully achieved the goals set forth in Section 27-281.

(b) *Designee duties.* The designee appointed pursuant to subsection (a) of this section shall serve as a liaison between the City and the communities served by the special parking districts program to address any concerns related to the special parking districts program and shall monitor pending applications for establishment of a residential restricted parking district pursuant to Section 27-279. The designee shall also conduct a survey of neighborhood groups affected by the special parking districts program administered in accordance with Sections 27-281 through 27-284 for the purpose of determining if the program has successfully achieved the goals set forth in Section 27-281 and submit a report to the Director of Public Works concerning the survey results and any pending applications for establishment of a residential restricted parking district pursuant to Section 27-279.

(Code 2004, § 102-306; Code 2015, § 27-284; Ord. No. 2011-78-62, § 1, 4-25-2011; Ord. No. 2013-81-69, § 1, 4-22-2013)

Secs. 27-285—27-301. Reserved.

DIVISION 5. TOWING OF VEHICLES FROM PRIVATE PROPERTY

Sec. 27-302. Towing and storage fees.

(a) The maximum fee that may be charged for removing or towing passenger cars, trailers and other vehicles of less than 10,000 pounds gross weight from private property, at the request of the owner of the property and without the permission of the owner of such a vehicle is $135.00. For towing a vehicle between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or holiday, an additional fee of no more than $25.00 per vehicle towed may be charged.

(b) The maximum fee that may be charged for the storage of such passenger cars, trailers and other vehicles is $45.00 per 24-hour period. However, no fee for the storage of such passenger cars, trailers and other vehicles may be charged for the first 24-hour period.

(c) The maximum fee that may be charged for vehicles released at the scene or as a "drop fee" is $40.00. This fee may only be charged when the person conducting the towing has already hooked up the vehicle but has not

yet removed the vehicle from private property and the vehicle's owner or vehicle owner's agent arrives to claim the vehicle and pay this fee. The person conducting the towing must release the vehicle to the vehicle's owner or the vehicle owner's agent in return for the payment of this fee.

(d) The maximum fee that may be charged for administrative fees is $50.00. This fee may only be charged when the vehicle has been left in the tow lot over 72 hours.

(e) An after-hours release fee, not to exceed $35.00, may be charged for vehicles released between 7:00 p.m. and 8:00 a.m. No other fees, liens or towing, storing or administrative costs may be charged.

(f) Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 28-270; Code 2004, § 102-326; Code 2015, § 27-302; Ord. No. 2009-227-223, § 1, 12-14-2009; Ord. No. 2017-198, § 1, 11-13-2017)

Sec. 27-303. Signs.

(a) No fee for the removal, towing, immobilization or storage or of any sort may be charged to the owner of a motor vehicle or trailer which was removed or immobilized from a privately owned parking area or lot at the request of the owner, operator or lessee of the parking area and without the permission of the vehicle's owner, unless signs are posted which meet the criteria in this section. Signs shall be posted at locations clearly visible from the parking area and where they can be read during hours of limited visibility. Signs must contain the following or substantially similar wording:

PRIVATE PARKING

(Name of owner, lessee or agent of the private property)

AUTHORIZED PARKING ONLY

TOWING ENFORCED BY

(Name of towing firm)

CALL (Towing firm telephone number)

FOR LOCATION AND INFORMATION

CONCERNING RETURN OF VEHICLE

Signs must also be at least 36 inches in width and 30 inches in height. Lettering for the top three lines shall be at least three inches in height and for all other lines at least one inch in height. All signs shall comply with Chapter 30 which pertains to zoning.

(b) Any individual or business entity which removes a motor vehicle as described in subsection (a) of this section shall post signs at its main place of business and at any other location where towed vehicles may be reclaimed conspicuously indicating the maximum towing, storage and administrative charges allowed under Section 27-302 as well as the business telephone number of the City official responsible for handling consumer complaints relating to the removal of trespassing vehicles from private property. The Chief of Police shall publish, on the City's website and by any other appropriate means as the Chief of Police may determine, the business telephone number of the City official responsible for handling consumer complaints relating to the removal of trespassing vehicles from private property.

(c) Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 28-271; Code 2004, § 102-327; Code 2015, § 27-303; Ord. No. 2009-227-223, § 1, 12-14-2009)

Sec. 27-304. Removing motor vehicle from private property without permission.

It shall be unlawful for any person to remove, immobilize or tow a motor vehicle or trailer from private property or to direct another person to remove, immobilize or tow a motor vehicle or trailer from private property without first obtaining the permission of the owner of the motor vehicle or trailer; the owner, lessee, custodian or other person lawfully in charge of the private property; or a law enforcement officer. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(Code 1993, § 28-272; Code 2004, § 102-328; Code 2015, § 27-304; Ord. No. 2009-227-223, § 1, 12-14-2009)

Secs. 27-305—27-326. Reserved.

ARTICLE VII. ABANDONED, UNATTENDED AND INOPERATIVE VEHICLES*

***Cross reference—**Nuisances, § 11-51 et seq.

State law reference—Abandoned, immobilized, unattended and trespassing vehicles, Code of Virginia, § 46.2-1200 et seq.

Sec. 27-327. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means a motor vehicle, trailer, or semitrailer or part of a motor vehicle, trailer, or semitrailer that:

(1) Is inoperable and is left unattended on public property, other than an interstate highway or primary highway, for more than 48 hours;

(2) Has remained illegally on public property for more than 48 hours;

(3) Has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property;

(4) Is inoperable, left unattended, or both on an interstate highway; or

(5) Is inoperable, left unattended, or both on the shoulder of a primary highway.

Inoperable abandoned motor vehicle means an abandoned motor vehicle which is inoperable and which the fair market value, as determined by the locality's official responsible for assessing motor vehicles under Code of Virginia, § 58.1-3503, is less than the cost of its restoration to an operable condition.

Inoperable motor vehicle means any motor vehicle, trailer or semitrailer:

(1) That is not in operating condition;

(2) For a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or

(3) On which there are displayed neither valid license plates nor a valid inspection decal. However, the term "inoperable motor vehicle" does not apply to any motor vehicle which is on the premises of a licensed business which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

Owner of record and *persons having security interests of record* mean per the records of the State Department of Motor Vehicles.

Shielded or *screened* means hidden from sight, from any ground level location, by vegetation or fences.

Unattended motor vehicle means any motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer that is:

(1) Left unattended on a public highway or other public property and constitutes a traffic hazard;

(2) Illegally parked;

(3) Left unattended for more than ten days on public property;

(4) Left unattended for more than 72 hours on private property without the permission of the property owner, lessee, or occupant; or

(5) Immobilized on a public roadway by weather conditions or other emergency situations.

(Code 1993, § 28-316; Code 2004, § 102-361; Code 2015, § 27-327)

Cross reference—Definitions generally, § 1-2.

State law reference—Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property,

removal of such vehicles, Code of Virginia, § 15.2-904(A); definitions, Code of Virginia, § 46.2-1200; notice to owner of vehicle taken into custody, Code of Virginia, § 46.2-1202; removal and disposition of unattended or immobile vehicles, ordinances in counties, cities and towns, Code of Virginia, § 46.2-1213; leaving vehicles on private property prohibited, authority of counties, cities, and towns to provide for removal and disposition, notice of disposition, Code of Virginia, § 46.2-1215.

Sec. 27-328. Offenses relating to motor vehicles on private property.

(a) It shall be unlawful for any person to keep an inoperable motor vehicle on any property zoned for residential or commercial or agricultural purposes, except within a fully enclosed building or structure or otherwise shielded or screened from view.

(b) Any person violating this section shall be guilty of a Class 1 misdemeanor. A separate offense shall be deemed committed for each motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer or semitrailer that is in violation of this section.

(Code 1993, § 28-317; Code 2004, § 102-362; Code 2015, § 27-328)

State law reference—Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property, removal of such vehicles, Code of Virginia, § 15.2-904(A); prohibition against causing a motor vehicle become abandoned, Code of Virginia, § 46.2-1200.1; prohibition against leaving a motor vehicle on the private property of any other person without the consent of that other person, Code of Virginia, § 46.2-1215.

Sec. 27-329. Offenses relating to inoperable motor vehicles on streets and other public property.

(a) It shall be unlawful for an owner, operator, driver or person in control to leave an inoperable motor vehicle, motor home, trailer or semitrailer unattended on any public property, including on any street or roadway or in any alley, for more than 48 hours.

(b) Any person violating this section shall be guilty of a Class 1 misdemeanor.

(c) In any prosecution charging a violation of this section, proof that the motor vehicle, motor home, trailer or semitrailer described in the complaint, warrant or summons was left unattended in violation of this section, together with proof that the defendant was at the time the registered owner thereof, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

(Code 2004, § 102-362.1; Code 2015, § 27-329; Ord. No. 2005-114-62, § 1, 5-9-2005)

Sec. 27-330. Procedures for impounding and immobilizing motor vehicles.

(a) *Abandoned and inoperable abandoned motor vehicles.* The City may cause abandoned motor vehicles and inoperable abandoned motor vehicles to be removed to the vehicle compound for safekeeping.

(b) *Unattended motor vehicles.* The City may cause unattended motor vehicles to be removed by or under the direction of a law enforcement officer to the vehicle compound for safekeeping. However, unattended motor vehicles shall not be removed from private property without the owner, lessee, or occupant of the premises providing to the City both a written request that the unattended motor vehicle be removed and the owner's, lessee's, or occupant's agreement to indemnify the City against any loss or expense incurred by reason of removal, storage, or sale thereof. The City shall not cause unattended motor vehicles to be removed from private property which is normally open to the public for parking unless there is posted at such places signs warning that vehicles left on the property for more than 72 hours will be towed or removed at the vehicle owner's expense.

(c) *Motor vehicles with three or more unpaid parking violation notices.*

(1) The City may cause any motor vehicle parked on the public highways or public grounds against which there are three or more unpaid or otherwise unsettled parking violation notices to be either immobilized or removed to the vehicle compound for safekeeping. The removal or immobilization of the vehicle shall be by or under the direction of an officer or employee of the Department of Police. No such vehicle parked on private property may be removed or immobilized unless written authorization to enforce this section has been given by the owner of the property or an association of owners formed pursuant to the Virginia Condominium Act (Code of Virginia, § 55.1-1900 et seq.) or the Horizontal Property Act (Code of Virginia, § 55.1-2000 et seq.), and the City has provided written assurance to the owner of the property that he will be held harmless from all loss, damage, or expense, including costs and attorney's fees, that

may be incurred as a result of the towing or otherwise of any motor vehicle pursuant to this section.

(2) It shall be the duty of the law enforcement personnel removing or immobilizing the motor vehicle or under whose direction such vehicle is removed or immobilized, to inform as soon as practicable the owner of the removed or immobilized vehicle of the nature and circumstances of the prior unsettled parking violation notices for which the vehicle was removed or immobilized.

(3) When a vehicle is immobilized pursuant to this section, there shall be placed on the vehicle, in a conspicuous manner, a notice warning that the vehicle has been immobilized and that any attempt to move the vehicle might damage it. For at least 24 hours from the time of immobilization, the owner of an immobilized motor vehicle, or other person acting on his behalf, shall be permitted to secure the release of the vehicle by payment of the outstanding parking violation notices for which the vehicle was immobilized and by payment of all costs incidental to the immobilization. After at least 24 hours have passed, and the owner of an immobilized vehicle or person acting on his behalf has not secured the release of the vehicle, law enforcement personnel may direct that the vehicle be removed to the vehicle compound for safekeeping.

(d) *Inoperable motor vehicles.* In addition to the penalty prescribed in Section 27-328, the City may cause the owner or occupant of any parcel of land found to contain an inoperable motor vehicle which is not in a fully enclosed building or structure, whether or not such inoperable motor vehicle is shielded or screened from view, to be given notice that the inoperable motor vehicle constitutes a nuisance and that the City will cause the vehicle to be removed unless the vehicle is placed within a fully enclosed building or structure or removed from the property within 48 hours or within some longer time period stated in the notice. If the owner or occupant fails to comply with the notice and abate the nuisance within the specified time, the City or its agents shall cause such vehicle to be removed to the vehicle compound.

(Code 1993, § 28-318; Code 2004, § 102-363; Code 2015, § 27-330; Ord. No. 2005-115-63, § 1, 5-9-2005; Ord. No. 2006-328-2007-10, § 1, 1-8-2007)

State law reference—Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property, removal of such vehicles, Code of Virginia, § 15.2-904; definitions, Code of Virginia, § 46.2-1200; removal and disposition of unattended or immobile vehicles, ordinances in counties, cities and towns, Code of Virginia, § 46.2-1213; prohibition against leaving a motor vehicle on the private property of any other person without the consent of that other person, Code of Virginia, § 46.2-1215; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216; unattended or immobile vehicles, Code of Virginia, § 46.2-1209; removal of vehicles obstructing movement from driveways, etc., Code of Virginia, § 46.2-1211.

Sec. 27-331. Notice of impounded motor vehicles.

(a) When, pursuant to Section 27-330, an abandoned motor vehicle, unattended motor vehicle, inoperable motor vehicle or motor vehicle against which there are three or more unpaid or otherwise unsettled parking violation notices has been impounded pursuant to Section 27-330, the City or its designees shall provide notice of such impoundment as required by this section.

(b) As promptly as possible after impoundment, the law enforcement officer or other City employee or agent under whose direction the unattended vehicle was removed shall report the impoundment to the Chief of Police.

(c) Within 15 days after a motor vehicle is impounded under this section, the person in charge of the vehicle compound shall notify, by registered or certified mail, return receipt requested, the owner of record of the motor vehicle and all persons having security interests in the vehicle of record that the vehicle has been taken into custody. The notice shall state the year, make, model and the vehicle identification number of the motor vehicle; shall set forth the location of the facility where it is being held; and shall inform the owner and any persons having security interests of their right to reclaim the motor vehicle within 15 days after the date of the notice upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or persons having security interests to reclaim the vehicle within the time provided shall constitute both a waiver by the owner and all persons having any security interests of all right, title and interest in the vehicle and consent to the sale of the motor vehicle at a public auction. If the vehicle was impounded because of three or more unsettled parking violation notices, the notice shall also state the nature and circumstances of the unsettled parking violations for which the vehicle was impounded.

(d) If records of the State Department of Motor Vehicles contain no address for the owner or no address of any person shown by such records to have a security interest or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the City shall be sufficient to meet all requirements of notice to any such person. Such notice by publication may contain multiple listings of motor vehicles. Any such notice by publication shall be within the time requirements and shall have the same contents as for notice by mail prescribed in subsection (c) of this section.

(Code 1993, § 28-319; Code 2004, § 102-364; Code 2015, § 27-331)

State law reference—Notice to owner of vehicle taken into custody, Code of Virginia, § 46.2-1202; removal and disposition of unattended or immobile vehicles, ordinances in counties, cities and towns, Code of Virginia, § 46.2-1213; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216.

Sec. 27-332. Disposition of impounded motor vehicles.

(a) If no owner or lienholder of a motor vehicle impounded pursuant to Section 27-330 can be located following the procedures in Section 27-331 or if no owner or lienholder pays all costs incidental to its removal and storage and locating the owner, including the payment of any outstanding parking violation notices and any costs incidental to immobilization for a vehicle which was impounded for three or more unsettled parking violation notices, the City or its authorized agent shall, notwithstanding Code of Virginia, § 46.2-617, sell it at public auction.

(b) Auction of motor vehicles pursuant to this section shall occur no earlier than 16 days after notice was provided pursuant to Section 27-331. However, auctions of unattended motor vehicles removed from private property shall occur no earlier than 61 days after such vehicles were impounded or 16 days after notice was provided pursuant to Section 27-331, whichever date occurs later.

(c) Any personal property found in such motor vehicles may be sold incident to the sale of the vehicle as authorized in this section.

(d) The purchaser of such motor vehicles shall take title to the motor vehicle free of all liens and claims of ownership of others; shall receive a sales receipt at the auction; and shall be entitled, upon application to the State Department of Motor Vehicles, to receive a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in that case, no further titling of the vehicle shall be necessary.

(e) The City or its authorized agent shall reimburse itself from the proceeds of any auction authorized in this section for the expenses of the auction; the cost of removing, preserving, and storing the motor vehicle which resulted from placing it in custody; and all notice and publication costs incurred pursuant to Section 27-331. Any remainder from the proceeds of an auction shall be held for the owner of the motor vehicle or any person having security interests in the motor vehicle, as their interests may appear, for 90 days and then shall be deposited into the City treasury.

(f) In addition to the sale as outlined in this section, the cost of removal and disposal for inoperable motor vehicles shall be chargeable to the owner of the motor vehicle or the owner of the premises from which it was removed and may be collected by the City as taxes and levies are collected, and every cost authorized by this section assessed against the owner of the premises shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of cost has been made to the City.

(g) After the sale at auction of any unattended motor vehicle, the City or its authorized agent shall notify the State Department of Motor Vehicles of the disposition of the unattended motor vehicle.

(Code 1993, § 28-320; Code 2004, § 102-365; Code 2015, § 27-332; Ord. No. 2006-328-2007-10, § 1, 1-8-2007)

State law reference—Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property, removal of such vehicles, Code of Virginia, § 15.2-904; sale of vehicle at public auction, disposition of proceeds, Code of Virginia, § 46.2-1203; removal and disposition of unattended or immobile vehicles, ordinances in counties, cities and towns, Code of Virginia, § 46.2-1213; sale of personal property found in unattended or abandoned vehicle, Code of Virginia, § 46.2-1214; prohibition against leaving a motor vehicle on the private property of any other person without the consent of that other person, Code of Virginia, § 46.2-1215; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216.

Sec. 27-333. Notice and disposition of inoperable abandoned motor vehicles.

(a) Notwithstanding any other section of this article, the City may dispose of any inoperable abandoned motor vehicle which has been taken into custody pursuant to Section 27-330(a) by sending it to a demolisher, without following the title or notification procedures required by Section 27-331.

(b) When a motor vehicle is disposed of as provided for in subsection (a) of this section, the Chief of Police shall certify this fact to and claim reimbursement from the State Department of Motor Vehicles pursuant to Code of Virginia, § 46.2-1207.

(Code 1993, § 28-321; Code 2004, § 102-366; Code 2015, § 27-333)

State law reference—Disposition of inoperable abandoned vehicle, Code of Virginia, § 46.2-1205; certification of disposal, reimbursement of locality, Code of Virginia, § 46.2-1207.

Secs. 27-334—27-354. Reserved.

ARTICLE VIII. SIZE AND WEIGHT OF VEHICLES*

***State law reference—**Vehicle size, weight and load, Code of Virginia, § 46.2-1101 et seq.

Sec. 27-355. Decrease of weight and load limits.

The Mayor may make, promulgate and enforce rules and regulations decreasing the weight and load limit specified in Code of Virginia, Title 46.2, Ch. 10, Art. 17 (Code of Virginia, § 46.2-1122 et seq.) for a total period not to exceed 90 days in any calendar year, when operation over highways by reason of deterioration, rain, snow or other climatic conditions will seriously damage such highways unless such weights are reduced. The Chief Administrative Officer shall cause to be erected signs stating the weight specified in such rule or regulation at each end of the section of the highway affected, and no such rule or regulation shall be effective until such signs are erected. Any person violating such rules and regulations shall be punished as provided in Section 27-42.

(Code 1993, § 28-331; Code 2004, § 102-401; Code 2015, § 27-355; Ord. No. 2004-360-330, § 1, 12-13-2004)

State law reference—Similar provisions, Code of Virginia, § 46.2-1104.

Sec. 27-356. Permits for vehicles of excessive size and weight.

(a) The Chief of Police may, upon application in writing and good cause being shown therefor, issue a special permit, in writing, authorizing the applicant to operate or move a vehicle upon the highways of a size or weight exceeding the maximum specified in this chapter. Each such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the Chief respecting liability for damage to the highways and other public or private property on or near the highways. The duration of each permit shall be for such length of time as is necessary to accomplish the purposes and objectives of the applicant, whether one or more vehicles are operated or moved upon the highways in furtherance thereof, but shall expire in any event one year after the date of issuance thereof.

(b) Special permits to operate or move a vehicle upon the highways of a weight exceeding the maximum specified in this chapter shall be granted without costs where the vehicle is hauling or carrying containerized cargo in a sealed, seagoing container bound to or from a State seaport and has been or will be transported by marine shipment, provided the single axle weight does not exceed 20,000 pounds, the tandem axle weight does not exceed 34,000 pounds and the gross weight does not exceed 78,000 pounds and provided the contents of such seagoing container are not changed from the time it is loaded by the consignor or agents to the time it is delivered to the consignee or agents. Cargo moving in vehicles conforming to specifications shown in this subsection but exceeding axle and gross weight limitations shown in this subsection shall be considered irreducible and eligible for permits under regulations of the Commonwealth Transportation Board. The requirement of this subsection that the container be bound to or from a seaport in the State need not be met if the cargo in the container is destined for a seaport outside the State and consists wholly of farm products grown in that part of the State separated from the larger part of the State by the Chesapeake Bay.

(c) The Chief, upon application in writing made by the owner or operator of three-axle vehicles used exclusively for the mixing of concrete in transit or at a project site or for transporting necessary components in a compartmentalized vehicle to produce concrete immediately upon arrival at the project site and having a gross

weight not exceeding 60,000 pounds, a single-axle weight not exceeding 20,000 pounds and a tandem-axle weight not exceeding 40,000 pounds, shall issue to such owner or operator, without cost, a permit in writing authorizing the operation of such vehicles upon the highways. No such permit shall be issued authorizing the operation of the vehicles enumerated in this subsection for a distance of more than 25 miles from a batching plant; however, the permit shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways. Each vehicle, when loaded according to the provisions of a permit issued under this section, shall be operated at a reduced speed. The reduced speed limit is to be ten miles per hour slower than the legal speed limit in 55, 45 and 35 mile-per-hour speed limit zones. No permit issued under this section providing for a single-axle weight in excess of 20,000 pounds or for a tandem-axle weight in excess of 34,000 pounds shall be issued to include travel on the Federal interstate system of highways.

(d) The Chief, upon application in writing made by the owner or operator of vehicles used exclusively for the hauling of coal from a mine or other place of production to a preparation plant, loading dock or railroad, shall issue to such owner or operator, without cost, a permit in writing authorizing those vehicles to operate with gross weights in excess of that established in Code of Virginia, § 46.2-1122 et seq., on the conditions set forth in this subsection. Vehicles with three axles may have a maximum gross weight, when loaded, of no more than 60,000 pounds, a single-axle weight not exceeding 24,000 pounds and a tandem-axle weight not exceeding 45,000 pounds. Vehicles with four axles may have a maximum gross weight, when loaded, of no more than 70,000 pounds, a single-axle weight not exceeding 24,000 pounds, and a tri-axle weight not exceeding 50,000 pounds. Vehicles with five axles having no less than 35 feet of axle space between extreme axles may have a maximum gross weight, when loaded, of no more than 90,000 pounds, a single-axle weight not exceeding 20,000 pounds, and a tandem-axle weight not exceeding 40,000 pounds. In addition, as of July 1, 1979, any vehicle permitted by this subsection the load of which rises above the top of the bed of such vehicle, not including extensions of the bed, shall be in violation of this section. As of April 1, 1980, all vehicles to qualify for a valid permit under this subsection must be identified by their bed size in cubic feet and modified, where required, to permit visual inspection in the manner provided in this subsection, and as of that date any existing permit not issued in such manner shall be invalid. However, as of July 1, 1979, any vehicle owner or operator who so desires may obtain a permit in accordance with the conditions established for permits as of April 1, 1980, and shall thereby be subject to the provisions of this section applicable to vehicles with such permits. As of April 1, 1980, three-axle vehicles shall not carry loads in excess of the maximum bed size in cubic feet for such vehicle which shall be computed by a formula of 60,000 pounds less the weight of the truck empty divided by the average weight of coal which is established to be 52 pounds per cubic foot. Four-axle vehicles shall not carry loads in excess of the maximum bed size in cubic feet for such vehicle which shall be computed by a formula of 70,000 pounds less the weight of the truck empty divided by the average weight of coal which is established to be 52 pounds per cubic foot. For the purposes of this subsection, the term "bed" shall mean that part of the vehicle utilized to contain coal while hauling, and bed size shall be measured by its interior dimensions with volume expressed in cubic feet. In order to ensure compliance with this subsection by visual inspection, if the actual bed size of the vehicle exceeds the maximum as provided above, the owner or operator shall be required to paint a horizontal line two inches wide on the sides of the outside of the bed of the vehicle which is clearly visible to indicate the uppermost limit of the maximum bed size applicable to the vehicle as provided in this subsection. In addition, one slotted hole two inches high and six inches long on each side of the bed shall be cut in the center of the bed and at the top of the painted line. As of July 1, 1979, any vehicle not in compliance with this subsection shall be in violation of this subsection, and the owner or operator, or both, shall be subject to a penalty of $250.00 for the first offense, $500.00 for a second offense within a 12-month period, and $1,000.00 and revocation of the permit for a third offense within a 12-month period from the first offense. If the bed of any vehicle which has received a permit under this subsection is enlarged beyond the maximum bed size for which its permit was granted or if the line or holes required are altered so that the vehicle exceeds the bed size for which its permit was granted, the owner or operator, or both, shall be subject to a penalty of $1,000.00 for each offense and revocation of the permit. Upon revocation, a permit shall not be reissued for six months. Any vehicle with a valid permit issued pursuant to the conditions required for a permit as of April 1, 1980, when such vehicles are carrying loads which do not rise above the top of the bed or the line indicating the bed's maximum size in cubic feet, if applicable, it shall be, in the absence of proof to the contrary, prima facie evidence that the load is within the applicable weight limits. If any vehicle is stopped by enforcement officials for carrying a load rising above the top of the bed or the line indicating the bed's maximum size in cubic feet, if applicable, the operator of the vehicle shall be permitted to shift the load within the bed to determine if the load can be contained in the bed without rising above its top or above the

line. No such permit shall be valid for the operation of any such vehicle for a distance of more than 35 miles from such preparation plant, loading dock or railroad. However, no permit issued under this section providing for a single-axle weight in excess of 20,000 pounds or a tandem-axle weight in excess of 34,000 pounds shall be issued to include travel on the Federal interstate system of highways.

(e) Upon the application in writing of any county which has withdrawn its roads from the secondary system of State highways and which owns or operates three-axle refuse collection trucks, a single-axle weight not exceeding 20,000 pounds, and a tandem-axle weight not exceeding 36,000 pounds, the Chief shall issue to such county, without cost, a permit in writing authorizing the operation of such vehicles upon the highways. Permits may be issued only for the operation of the four refuse collection trucks which the county owned or had ordered prior to March 1, 1968. No such permit shall designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways. No permit issued under this section providing for a single-axle weight in excess of 20,000 pounds or a tandem-axle weight in excess of 34,000 pounds shall be issued to include travel on the Federal interstate system of highways.

(f) The Chief, upon application in writing made by the owners or operators of motor vehicles not exceeding the axle and gross weight limitations as set forth in Code of Virginia, § 46.2-1122 et seq., shall issue, without cost, a permit authorizing the operation of such motor vehicles on the highways of this City to transport items arriving at a State port by ship from overseas points of origin and consigned to an assembly plant in this State. The Chief may designate the routes such permittees must use from the port to the assembly plant.

(g) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any officer, and it shall be a misdemeanor for any person to violate any of the terms or conditions of such special permit.

(h) However, the City, upon application in writing made by the owner or operator of a three-axle passenger bus, consisting of two sections joined together by an articulated joint with the trailer being equipped with a mechanically steered rear axle and having a gross weight not exceeding 60,000 pounds, a single-axle weight not exceeding 25,000 pounds and a width not to exceed 102 inches, shall issue to such owner or operator, without cost, a permit in writing authorizing the operation of such vehicle upon the highway. No permit issued under this section providing for a single axle weight in excess of 20,000 pounds or for a tandem axle weight in excess of 34,000 pounds shall be issued to include travel on the Federal interstate system of highways.

(i) Except as otherwise provided in this section, for each such permit so issued, a fee of $25.00 shall be paid to the City to defray the cost incident to the issuance of such permit, provided that no fee shall be charged for the issuance of a permit to operate or move a motor vehicle by continuous passage through the City, between points of origin and destination beyond the corporate limits thereof, upon a highway designated as a Federal or State highway route when the movement of the vehicle is confined exclusively to such route and there is no deviation therefrom.

(Code 1993, § 28-332; Code 2004, § 102-402; Code 2015, § 27-356; Ord. No. 2013-85-61, § 1, 4-22-2013)

State law reference—Permits for excessive size, and weight, Code of Virginia, § 46.2-1139 et seq.

Sec. 27-357. Permit for transportation of certain manufactured homes in City.

(a) Whenever any permit has been issued by the Commissioner of the Department of Motor Vehicles, pursuant to Code of Virginia, § 46.2-653, for the transportation of any manufactured home described in such section, an additional permit shall be required from the Chief of Police for the transportation of such mobile home or house trailer in or through the City.

(b) The Chief may prescribe the route over which any manufactured home, for the transportation of which a permit has been issued by the Commissioner pursuant to Code of Virginia, § 46.2-653, may be transported in or through the City, and no such manufactured home shall be transported through the City except along such prescribed route.

(c) No special permit shall be issued pursuant to this section covering any manufactured home which is subject to a license.

(Code 1993, § 28-333; Code 2004, § 102-403; Code 2015, § 27-357)

Sec. 27-358. Weight limits for any vehicle or combination of vehicles.

In accordance with Code of Virginia, § 46.2-1138.1, the weight limits established by Code of Virginia, §§

46.2-1123 through 46.2-1127, shall apply to any vehicle or combination of vehicles passing over any roads under the jurisdiction of the City.

(Code 2015, § 27-358; Ord. No. 2019-008, § 1, 1-28-2019)

Sec. 27-359. Liquidated damages for violation of weight limits for certain vehicles.

Upon a finding of a violation of any weight limit imposed on any vehicle or combination of vehicles by Section 27-358, the court shall assess the owner, operator or other person causing the operation of such overweight vehicle at the applicable rate and amount established in Code of Virginia, § 46.2-1135. Such assessment shall be entered by the court as a judgement for the City. The entry of such judgment shall constitute a lien upon the overweight vehicles. The sums for any violation of Section 27-358 shall be paid into the treasury of the City, and allocated to the fund appropriated by the City for the construction and maintenance of such roads under the City's jurisdiction.

(Code 2015, § 27-359; Ord. No. 2019-008, § 1, 1-28-2019)

Secs. 27-360—27-387. Reserved.

ARTICLE IX. BICYCLES*

***State law reference—**Bicycles, Code of Virginia, § 46.2-903 et seq.

Sec. 27-388. Removal, destruction or mutilation of serial number.

No person shall willfully remove, destroy, mutilate or alter the serial number on any bicycle or knowingly possess a bicycle, the serial number of which has been removed, destroyed, mutilated or altered. If a person has or acquires a bicycle not bearing a legible serial number placed thereon by the manufacturer, such person shall immediately report the lack of a legible serial number to the Chief of Police, who may designate a serial number therefor and direct that such number be placed on the bicycle.

(Code 1993, § 28-352; Code 2004, § 102-437; Code 2015, § 27-388)

Sec. 27-389. Report of receipt of used bicycles or parts for resale.

Any person who receives for resale a used bicycle or used bicycle parts shall report such receipt to the Chief of Police within 24 hours thereafter and shall not sell such bicycle or parts within five days from such receipt, unless authorized to do so by the Chief of Police.

(Code 1993, § 28-353; Code 2004, § 102-438; Code 2015, § 27-389)

Sec. 27-390. Impoundment.

(a) Any police officer may impound a bicycle which is attached to any tree on City-owned property, abandoned or which is parked in such a manner as to create a traffic hazard. The owner of a bicycle impounded by the police or the owner's agent may claim it at the place it is held and, upon proof of ownership, obtain possession thereof without the payment of any fee or charge on account of the impoundment. The Chief of Police shall use due diligence to ascertain the name and address of the owner of an impounded bicycle and notify the owner that it is being held. If a bicycle is not claimed by the owner within 30 days from the date it was impounded, it may be either donated to a charitable organization by the Chief of Police or sold by the Director of Procurement Services. Every such sale, whenever practicable, shall be made on the basis of competitive bids after the public notice required for the sale of tangible personal property owned by the City, and when there has been competitive bidding such sale shall be made to the highest or best responsible bidder. The Director of Procurement Services shall have authority to reject any or all bids and to order new bidding or, with the approval of the Chief Administrative Officer, make the sale to any person, whether a former bidder or not, without further bidding. The proceeds of such sales shall be paid into the City treasury. The cost of impounding, removal, storage, investigation as to ownership, notice and sale shall be paid out of the proceeds of such sale, and the balance of such funds shall be held for the owner of such bicycle at the time of its impoundment for a period of 60 days. The balance of the proceeds of sale shall thereafter be deposited in the City treasury. If, within three years after the date of sale of such bicycle, the ownership thereof at the time of its impoundment is established to the satisfaction of the Chief Administrative Officer, such owner shall be paid the balance of the proceeds from the sale, without payment of interest or other charge. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such proceeds after three years from the date of sale.

(b) Any bicycle found and delivered to the police by a private person which thereafter remains unclaimed for 30 days after the final date of publication as required in this section may be donated to a charitable organization or given to the finder; however, the location and description of the bicycle shall be published, at least once a week for two consecutive weeks, in a newspaper of general circulation within the City. Such notice shall be published in a form to be approved by the Chief of Police. If the bicycle is given to the finder, the finder of the bicycle shall be responsible for the publication of such notice and any cost associated therewith. Prior to release of the bicycle, the finder shall present verification of compliance with the publication requirements, as set forth in this section. If a license plate or tag is affixed to a found bicycle, the Chief of Police shall use due diligence to notify the owner that it is being held.

(Code 1993, § 28-354; Code 2004, § 102-439; Code 2015, § 27-390; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2007-152-105, § 1, 5-29-2007; Ord. No. 2010-21-67, § 2, 4-26-2010; Ord. No. 2013-88-62, § 1, 4-22-2013)

Sec. 27-391. Disposition of fees collected under article.

All fees collected under this article shall be paid into the City treasury.

(Code 1993, § 28-355; Code 2004, § 102-440; Code 2015, § 27-391)

Sec. 27-392. Attachment of bicycles to trees on City-owned property prohibited; impoundment.

It shall be unlawful for any person to attach any bicycle to any tree on City-owned property.

(Code 2004, § 102-441; Code 2015, § 27-392; Ord. No. 2013-88-62, § 2, 4-22-2013)

Sec. 27-393. Impoundment of bicycles.

(a) Any police officer may impound any bicycle that is inoperable due to missing or broken components necessary for operation and that is attached to posts, signs or other property on City-owned property for more than 72 hours. If any such bicycle is not claimed by the owner within 30 days from the date it was impounded, in accordance with Section 27-390, it may be either donated to a charitable organization by the Chief of Police or sold by the Director of Procurement Services.

(b) Any police officer may impound any bicycle in operating condition that is attached for more than ten days to posts, signs or other property on City-owned property. If any such bicycle is not claimed by the owner within 30 days from the date it was impounded, in accordance with Section 27-390, it may be either donated to a charitable organization by the Chief of Police or sold by the Director of Procurement Services.

(Code 2004, § 102-442; Code 2015, § 27-393; Ord. No. 2013-88-62, § 2, 4-22-2013)

Secs. 27-394—27-414. Reserved.

ARTICLE X. ASSEMBLIES, DEMONSTRATIONS AND PARADES

Sec. 27-415. Purpose.

Pursuant to the authority granted to the City by the Code of Virginia and its general police powers, the City has adopted the following sections in order to provide for the public health, safety and general welfare in the City, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the City while also encouraging the exercise of the rights to free speech and assembly in the City.

(Code 2004, § 102-500; Code 2015, § 27-415; Ord. No. 2003-348-307, § 2(28-400), 11-10-2003)

Sec. 27-416. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parade means any march, procession or motorcade consisting of people, animals, or vehicles, or a combination thereof upon the streets, sidewalks or other public areas within the City that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property.

Public assembly means any meeting, demonstration, picket line, rally or gathering of more than ten people for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property within the City or that interferes with or has a tendency to interfere with the normal use of any public property in a place open to the general public.

Spontaneous event means an unplanned or unannounced coming together of people, animals or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs first coming into public knowledge within 15 days of such parade or public assembly.

(Code 2004, § 102-501; Code 2015, § 27-416; Ord. No. 2003-348-307, § 2(28-401), 11-10-2003)

Cross reference—Definitions generally, § 1-2.

Sec. 27-417. Permit required.

(a) It shall be unlawful for any person to conduct or participate in a marathon and walking or physical endurance contest or exhibition, public assembly, demonstration or parade on the public streets, sidewalks, or other public property of the City in a place open to the general public for which a written permit has not been issued in accordance with the provisions of this article.

(b) The provisions of this section shall not apply to:

(1) Spontaneous events;

(2) Recreational activities, including jogging or walking, that do not require closing public streets or other public rights-of-way and that do not interfere with or have a tendency to interfere with the normal use of any public property in a place open to the general public;

(3) Door-to-door advocacy, including canvassing, pamphleteering, religious or political proselytizing and the distribution of written materials, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public;

(4) Door-to-door sales of goods or services, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public; provided, however, that any persons or organizations engaging in such activities shall comply with any other applicable requirements of this Code;

(5) Funeral processions;

(6) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;

(7) The United States Army, Navy, Air Force and Coast Guard, the military forces of the State and the police and fire divisions of the City;

(8) Governmental agencies acting within the scope of their functions; or

(9) Park and recreation areas that are regulated by the City's Department of Parks, Recreation and Community Facilities.

(c) Permits may be granted if they are requested by individuals or organizations who desire to have a permit, even though the permit is not required under this section.

(Code 2004, § 102-502; Code 2015, § 27-417; Ord. No. 2003-348-307, § 2(28-402), 11-10-2003)

Sec. 27-418. Application.

(a) Any person desiring to conduct a marathon and walking or physical endurance contest or exhibition, parade or public assembly shall make written application to the Chief of Police, or his designee, at least 15 days prior to such parade or public assembly. Such application shall set forth the following information:

(1) The name, address and telephone number of the person requesting the permit;

(2) The name and address of any organization or group the applicant is representing;

(3) The name, address and telephone number of the person who will act as the parade or public assembly leader or chairperson and who will be responsible for the conduct of the parade or public assembly;

(4) The type of public assembly, including a description of the activities planned during the event;

(5) The date and time (start and ending) of the parade or public assembly;

(6) If an assembly, the specific location or locations of the assembly;

(7) If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;

(8) The approximate number of people who, and animals and vehicles which will constitute such parade or public assembly and the type of animals and a description of the vehicles;

(9) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets or sidewalks or other public rights-of-way proposed to be traversed or used;

(10) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly; and

(11) Such other information as the Chief of Police, or his designee, may deem reasonably necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and for the protection of public health, safety and welfare.

(b) The Chief of Police, or his designee, shall not issue the permit if any information supplied by the applicant is false or intentionally misleading.

(c) The Chief of Police, or his designee, shall have the authority to and shall make reasonable efforts to consider an application hereunder which is filed less than 15 days before the date the parade or assembly is proposed to be conducted if, after due consideration of the date, time, place and nature of the marathon and walking or physical endurance contest or exhibition, parade or public assembly, the anticipated number of participants and the City services required in connection with the event, and where good cause is otherwise shown, the Chief of Police, or his designee, determines that the waiver of the permit application deadline will not present an undue hazard to public safety.

(Code 2004, § 102-503; Code 2015, § 27-418; Ord. No. 2003-348-307, § 2(28-403), 11-10-2003)

Sec. 27-419. Issuance or denial of permit.

(a) The Chief of Police, or his designee, shall issue the permit within five days of receipt of the completed application, and in any event prior to the scheduled parade or public assembly, if the proposed marathon and walking or physical endurance contest or exhibition, parade or public assembly will not endanger the public health, welfare or safety, after applying the following criteria and finding that:

(1) The time, duration, route and size of the parade or assembly will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public;

(2) The parade or assembly is not of such a nature that it will require diversion of so great a number of police and fire personnel to properly police the line of movement in the areas contiguous thereto so as to impair the normal protection of the remainder of the City;

(3) The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the parade or assembly in conformity with such permit;

(4) The applicant has, where appropriate, agreed to be responsible for having appropriate traffic control devices installed in accordance with the Uniform Manual on Traffic Control Devices to close roadways to vehicular traffic sufficient to control the orderly conduct of the parade or assembly in conformity with such permit;

(5) The conduct of the parade or assembly will not unduly interfere with the proper fire and police protection of, or ambulance service to, the remainder of the City, or unreasonably disrupt other public services and protection normally provided to the City;

(6) The parade or assembly will not interfere with another parade or assembly for which a permit has been granted; and

(7) The parade or assembly proposed will not violate, and will conform with all applicable State regulations and laws governing the proposed event.

(b) For marathons and walking or physical endurance contests or exhibitions, parades or public assemblies held on a regular or recurring basis at the same location, an application for an annual permit covering all such parades or assemblies during the calendar year may be filed with the Chief of Police, or his designee, at least 15 and not more than 60 days before the date and time at which the first such parade or public assembly is proposed to commence. The Chief of Police, or his designee, may and shall make reasonable efforts to consider an application hereunder which is filed less than 15 days before the date and time at which the first parade or assembly is proposed to commence, after due consideration of the factors specified in Section 27-418(c).

(c) If the Chief of Police, or his designee, denies an application, he shall promptly attempt to call and shall promptly mail to the applicant a notice of his action, stating the reasons for his denial of the permit and notifying the applicant of his right to appeal the denial pursuant to Section 27-423.

(d) If two or more applications are submitted requesting a permit under this article for a parade or assembly to be used at the same time and place, the application first filed shall be granted if it meets the requirements of this article.

(e) Nothing in this article shall permit the Chief of Police, or his designee, to deny a permit based upon political, social or religious grounds or reasons or based upon the content of the views expressed. Denial of a permit on such grounds is prohibited.

(Code 2004, § 102-504; Code 2015, § 27-419; Ord. No. 2003-348-307, § 2(28-404), 11-10-2003)

Sec. 27-420. Alternative permit.

The Chief of Police, or his designee, in denying a permit for a marathon and walking or physical endurance contest or exhibition, parade or public assembly shall be empowered to authorize the conduct of the parade or assembly on a date, at a time, at a place, or over a route different from that proposed by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Chief of Police, or his designee. An alternate permit shall conform to the requirements of and shall have the effect of a permit under this article.

(Code 2004, § 102-505; Code 2015, § 27-420; Ord. No. 2003-348-307, § 2(28-405), 11-10-2003)

Sec. 27-421. Compliance with directions and conditions.

Every person to whom a permit is issued under this article shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The marathon and walking or physical endurance contest or exhibition, parade or assembly chairperson or other person heading or leading the marathon and walking or physical endurance contest or exhibition, parade or assembly shall carry the permit upon his person during the conduct of the parade or assembly and show the permit when requested to do so.

(Code 2004, § 102-506; Code 2015, § 27-421; Ord. No. 2003-348-307, § 2(28-406), 11-10-2003)

Sec. 27-422. Revocation of permit.

The Chief of Police, or his designee, shall have the authority to revoke any permit issued pursuant to this article if any information supplied by the applicant is discovered to be false or intentionally misleading, if any term, condition, restriction or limitation of the permit has been substantially violated or if there is any continued violation of the terms, conditions, restrictions or limitations of the permit after the applicant or anyone acting in concert with him is notified of a violation of the permit by an appropriate law enforcement official.

(Code 2004, § 102-507; Code 2015, § 27-422; Ord. No. 2003-348-307, § 2(28-407), 11-10-2003)

Sec. 27-423. Appeal.

(a) Any person aggrieved by the refusal of the Chief of Police, or his designee, to grant a permit or by the revocation of a permit after one has been issued, may, but is not required to, appeal the denial to the Chief Administrative Officer, or his designee, by filing with the Chief Administrative Officer's Office, within five working days after the date of denial or revocation, a written notice of the appeal setting for the grounds therefor. The Chief Administrative Officer, or his designee, shall act upon the appeal within five working days after its receipt.

(b) The decision of the Chief of Police, or his designee, or the Chief Administrative Officer, or his designee, may be appealed to the Circuit Court of the City of Richmond, in accordance with State law.

(c) In any appeal under this section, the City shall have the burden of demonstrating that the denial of the permit was justified under Section 27-419.

(d) The City shall meet all deadlines set by the court and by applicable statutes and court rules, and shall otherwise seek to ensure that the appeal, including any motion for preliminary relief, is decided as expeditiously as possible.

(Code 2004, § 102-508; Code 2015, § 27-423; Ord. No. 2003-348-307, § 2(28-408), 11-10-2003; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 27-424. Public conduct during marathons and walking or physical endurance contest or exhibitions parades, demonstrations and assemblies.

(a) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any marathon and walking or physical endurance contest or exhibition, parade, demonstration or assembly or with any person, vehicle or animal participating or used in a parade, demonstration or assembly for which a written permit has been issued in accordance with the provisions of this article.

(b) *Driving through parades.* No driver of a vehicle shall drive between the vehicles, persons or animals comprising a marathon and walking or physical endurance contest or exhibition, parade, demonstration or assembly except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles such as fire apparatus, ambulances and police vehicles.

(c) *Parking on parade, demonstration or assembly route.* The Chief of Police, or his designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or public rights-of-way constituting a part of the route of a marathon and walking or physical endurance contest or exhibition, parade, demonstration or assembly. The Chief of Police, or his designee, shall ensure that signs are posted to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this article.

(Code 2004, § 102-509; Code 2015, § 27-424; Ord. No. 2003-348-307, § 2(28-409), 11-10-2003)

Chapter 28

UTILITIES*

***Charter reference—**Utilities, Ch. 13.

Cross reference—Administration, Ch. 2; department of public works, § 2-425 et seq.; buildings and building regulations, Ch. 5; businesses and business regulations, Ch. 6; acquisition of utility easement for City-owned property, § 8-33; environment, Ch. 11; design criteria for utilities and facilities, § 14-84; health, Ch. 15; solid waste, Ch. 23; streets, sidewalks and public ways, Ch. 24; subdivision of land, Ch. 25; stormwater sewers or drainage systems in subdivisions, § 25-256; utility taxes, § 26-635 et seq.

ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief Administrative Officer means the Chief Administrative Officer or the Chief Officer or the Chief Administrative Officer's designees.

Consumer means the person who benefits from the water service, wastewater service, stormwater service or gas service or any combination used or wasted on any premises within or without the corporate City limits, or means a customer.

Customer means the person legally or equitably responsible for the payment of charges for stormwater, water, gas or wastewater service or any combination used or wasted on any premises within or without the corporate City limits.

Department means the Department of Public Utilities.

Director means the Director of Public Utilities or the Director's designee.

Gas service connection means facilities and equipment in a street connected to a main or sub-main used to supply gas to any premises.

Locality means a city, town or county as defined by Code of Virginia, § 15.2-102, including any authorities, political subdivisions and special districts, located within the State.

Main means the pipe in a street extending parallel or nearly parallel to the line of property abutting thereon through which gas or water is conveyed or distributed.

Municipal separate storm sewer means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains owned by the City that discharges to surface waters and that are designed or used for collecting or conveying stormwater; that are not part of a combined sewer; and that are not part of a publicly owned treatment works.

Occupant means the person actually in possession or control of any premises or part thereof who is a consumer.

Owner means the person who has legal or equitable title to any premises.

Paving means the surface of a street or the treatment thereof.

Premises means land, building or other structure and appurtenances thereto, in addition to the separate units of any building or other structure and appurtenances thereto, which receive gas, water, wastewater, stormwater, or any other utility services, or any combination thereof, whether metered or unmetered, and which is assigned a unique account number by the Department of Public Utilities.

Private fire protection system means water mains, pipes, hydrants, sprinklers and other facilities on private premises within or without the corporate City limits.

Public fire protection system means water mains, pipes, hydrants and other facilities in a street used in whole

or in part for the protection of premises from fire.

Sewer means facilities designed to carry sewage.

Stormwater means naturally occurring precipitation, surface water, subsurface water or any combination thereof.

Stormwater service means facilities and equipment required to collect and, in certain cases, treat stormwater and the billing of services provided to the property owner.

Street means every way or place of whatever nature, whether within or without the corporate City limits, open to the use of the public, including streets, alleys, highways, parks or other roads, and all other public places.

Wastewater service means facilities and equipment required to collect and treat wastewater from the premises and the billing for services provided through the facilities and equipment to the consumer.

Wastewater service connection means facilities and equipment in the street area between the main and the property line used to collect and transport wastewater from any premises.

Water service means the meter, facilities and equipment required to furnish water service from the meter to the premises and the billing for services supplied through the meter to the consumer.

Water service connection means facilities and equipment in the street area between the main and the property line used to supply water to any premises.

(Code 1993, § 29-16; Code 2004, § 106-1; Code 2015, § 28-1; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2008-98-126, § 2, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2009-60-83, § 2, 5-26-2009; Ord. No. 2013-139-136, § 2, 7-22-2013)

Cross reference—Definitions generally, § 1-2.

Sec. 28-2. Unlawful acts generally.

(a) It shall be unlawful for any person, which shall include any owner, occupant, consumer or lessee of any premises, to:

(1) Injure or destroy or cause or permit the injury or destruction of any main, pipe, wire, service connection, meter or other fixture, appliance, apparatus or equipment belonging to the City used for or in connection with the distribution of gas, water or electricity or the collection of wastewater.

(2) Prevent or cause or permit to be prevented, in any manner, any meter from registering the quantity of gas, water, wastewater or electricity supplied or passing through the meter.

(3) Interfere or cause or permit interference with the action or registration of any meter through which gas, water, wastewater or electricity is supplied or passed.

(4) Divert or cause or permit diversion of the flow of gas, water, wastewater or electricity from any main, pipe, wire, service connection, meter or other fixture, appliance, apparatus or equipment without complying with this chapter or otherwise obtaining proper authority from the Director to do so.

(5) Use or cause or permit the use of gas, water or electricity or the use of wastewater or stormwater collection service without complying with this chapter or otherwise obtaining proper authority from the Director to do so.

(6) Injure, deface or destroy or cause or permit the injury, defacement or destruction of any building, tank, pole, transformer, holder or structure of any kind or any part thereof belonging to the City used for or in connection with the distribution of gas, water or electricity or the collection of wastewater or stormwater.

(7) Open, cause or permit the opening of a communication into any gas, water, wastewater, stormwater or electric main, pipe, wire, service connection, fixture, appliance, apparatus or equipment without complying with this chapter or otherwise obtaining proper authority from the Director to do so.

(8) Remove or cause or permit the removal of any gas, stormwater, water, wastewater or electric main, pipe, wire, service connection, meter, fixture, appliance, apparatus or equipment without complying with this chapter or otherwise obtaining proper authority from the Director to do so.

(9) Install or cause or permit the installation of any gas, water, wastewater, stormwater or electric main, pipe, wire, service connection, meter, fixture, appliance, apparatus or equipment without complying with this chapter or otherwise obtaining proper authority from the Director to do so.

(10) Leave or cause or permit to be left the end of any pipe or other opening without securing the pipe or other opening with a blind cap so as to effectually prevent the escape of gas, water, or wastewater or to cause any electric wire, transformer or electric utility fixture to be left in such a way as to be a danger.

(11) Use, consume or waste or cause or permit the use, consumption or waste of gas or water without paying therefor at the rates prescribed by the City Council or receive stormwater or wastewater service without paying therefor at the rates prescribed by the City Council.

(12) Tamper or cause or permit to be tampered with any gas, stormwater, water or wastewater main from the side or end thereof for the purpose of installing apparatus or equipment or by opening or closing any gate valve, corporation cock, cutoff valve, fire hydrant or other device without complying with this chapter or otherwise obtaining proper authority from the Director to do so.

(13) Tap or cause or permit to be tapped any main with a tapping sleeve and valve or other tapping device.

(14) Break into or cause or permit to be broken into any gas, water, stormwater or wastewater main from the side or end thereof for the purpose of extending other mains therefrom.

(15) Prohibit any authorized agent of the City to enter the premises for the purposes of inspection as required in this chapter.

(16) Knowingly receive or cause or permit the receipt of any benefit from the use of gas, water or wastewater service or any combination which is not properly metered or which is received in any manner in violation of this chapter.

(17) Have on the service pipe through which gas, water or wastewater service is supplied to the premises for which the person is legally responsible for payment of charges therefor any apparatus or device which permits gas, water or wastewater service or any combination to be received in any manner in violation of this chapter.

(18) Sublet or cause or permit any premises to be sublet which is supplied with gas, water or wastewater service or any combination for which the person is legally responsible for payment of charges therefor until such time as the person shall notify the Director of the intention to do so.

(19) Use or cause or permit to be used any fictitious or false name or use or cause or permit to be used any variation or rearrangement of the person's real or legally given name or illegally use the name of another person for the purpose of obtaining gas, stormwater, water or wastewater service or any combination.

(20) Take any action that may result in the obstruction or impairment of purpose of any ditch, culvert, pipe, or drainage easement which is designed, made or installed for the purpose of draining any street, road, public way or alley, including, but not limited to, putting any stone, brick or other solid thing into a culvert or sewer.

(b) Any person violating any provision of subsection (a) of this section, if the damage or destruction caused by such violation may be remedied or repaired for $100.00 or less, shall be guilty of a Class 3 misdemeanor.

(c) In addition to the penalty provided by subsection (b) of this section, every person violating subsection (a) of this section shall pay for all gas, stormwater, water or wastewater service used, consumed or wasted on account of such violation and all costs necessary to restore, replace or repair gas, water, wastewater, stormwater or electric property injured, defaced or destroyed thereby, the amounts to be paid on account thereof to be determined by the Director.

(Code 1993, § 29-30; Code 2004, § 106-2; Code 2015, § 28-2; Ord. No. 2009-60-83, § 2, 5-26-2009; Ord. No. 2013-139-136, § 2, 7-22-2013)

Secs. 28-3—28-24. Reserved.

Editor's note—Ord. No. 2018-077, § 2, adopted May 14, 2018, repealed § 28-3, which pertained to 311 Call Center and derived from Code 2004, § 106-3; Ord. No. 2010-21-67, § 3, 4-26-2010.

ARTICLE II. DIRECTOR OF PUBLIC UTILITIES*

***Cross reference—**Officers and employees, § 2-57 et seq.

Sec. 28-25. Management and control of Department; appointment and removal of officers and employees.

The Director shall have general management and control of the several divisions and other units of the Department of Public Utilities. The Director shall appoint and remove all officers and employees of the Department.

(Code 1993, § 29-41; Code 2004, § 106-31; Code 2015, § 28-25)

Sec. 28-26. Adoption of rules and regulations.

(a) The Director shall have the power to make reasonable rules and regulations not inconsistent with this chapter or other provisions of law or applicable ordinances, as deemed necessary to ensure the proper management, conduct, operation and control of the gas, wastewater, water, stormwater and electric utilities. The rules and regulations shall conform to reasonable standards adopted or approved for the management, conduct, operations and control of gas, wastewater, water, stormwater and electric utilities and may be altered or amended from time to time by the Director when the Director deems it necessary to do so for the proper management, conduct, operation and control of the utilities. No rule or regulation made by the Director pursuant to this section or any alteration or amendment thereof shall become effective or have the force and effect of law unless the Director shall:

(1) Make such rule or regulation or any alteration or amendment thereof in convenient form, available for public inspection in the Director's Office at least ten days before such rule or regulation or alteration or amendment thereof is to become effective.

(2) Publish a notice in a newspaper of general circulation published in the City declaring the Director's intention to make and adopt such rule or regulation or alteration or amendment thereof and informing the public that the Director will hold a hearing at which any person may appear and be heard for or against the adoption of such rule or regulation or alteration or amendment thereof, on a day and at a time to be specified in the notice after the expiration of at least ten days from the day of the publication thereof.

(3) Hold the public hearing on the day and at the time specified in such notice and hear all persons appearing for or against the adoption of such rule or regulation or alteration or amendment thereof.

(4) File a true copy of such rule or regulation or alteration or amendment thereof adopted by the Director after such public hearing in the Director's Office.

(b) It shall be unlawful for any person to fail, refuse or neglect to comply with or violate any rule or regulation made, adopted and filed pursuant to this section or any alteration or amendment thereof.

(Code 1993, § 29-48; Code 2004, § 106-32; Code 2015, § 28-26; Ord. No. 2009-60-83, § 2, 5-26-2009)

Sec. 28-27. Credits to customers.

The Director may establish a customer incentive program to provide monetary payments in the form of credits on customers' utility bills to encourage their participation in various product and service satisfaction surveys and data collection activities. The credit payments shall not exceed $5.00 per customer per activity, and the total amount paid under the customer response incentive program shall not exceed $10,000.00 per fiscal year.

(Code 1993, § 29-50; Code 2004, § 106-33; Code 2015, § 28-27)

Sec. 28-28. MetroCare heating assistance program.

The Director may establish the MetroCare heating assistance program whereby the Department of Public Utilities will accept tax deductible donations from its customers and engage a nonprofit agency to disburse such funds to individuals within the Department of Public Utilities' service territory who need financial assistance paying their heating bills. Pursuant to Section 28-26, the Director may also establish appropriate rules and regulations regarding the eligibility criteria for the award of financial assistance and the accounting, audit and control measures to monitor the disbursement of funds by the nonprofit agency.

(Code 1993, § 29-51; Code 2004, § 106-34; Code 2015, § 28-28)

Sec. 28-29. Number of service connections.

The number of gas, water and wastewater service connections to premises used for any purpose shall be prescribed by the Director in the rules and regulations adopted pursuant to Section 28-26.

(Code 1993, § 29-59; Code 2004, § 106-35; Code 2015, § 28-29)

Sec. 28-30. Limitation on construction of chapter.

Nothing in this chapter shall be construed to relieve or release any liability already incurred under other sections of this Code, to interfere with or destroy the rights and privileges secured to any person by other ordinances or franchises granted by the City.

(Code 1993, § 29-383; Code 2004, § 106-36; Code 2015, § 28-30)

Sec. 28-31. Rate stabilization funds.

(a) The Director shall include a rate stabilization fund within the accounting system of each utility operated by the Department of Public Utilities. If revenues of a utility exceed those needed to meet bond covenant requirements and a reasonable rate of return for the utility, the Director shall credit any such excess amounts to the utility's rate stabilization fund and shall debit such amounts to an operating expense account.

(b) The Director may use any amounts in a utility's rate stabilization fund for any fiscal year until the City's financial records are closed and the annual audit is completed for such year, by:

(1) Directing that all or any portion of the fund be included as a reduction of current year expenses for such year; or

(2) Proposing that all or any portion of such fund be included as part of the budget submissions of the Department of Public Utilities before the beginning of the fiscal year.

(c) The purpose of the rate stabilization funds shall be to eliminate or mitigate and smooth, in accordance with prudent financial planning, any rate increases that otherwise might be needed, from year to year, by increasing the rate stabilization fund amounts in years when revenues exceed those needed to meet bond covenant requirements and reasonable rates of return; and, to the extent prudent and possible, by using any such rate stabilization fund amounts instead of rate increases in years when revenues are or are projected to be insufficient to meet bond covenant requirements, reasonable rates of return, or budgeted net income.

(Code 1993, § 29-3; Code 2004, § 106-37; Code 2015, § 28-31)

Secs. 28-32—28-50. Reserved.

ARTICLE III. CUSTOMER SERVICE AND BILLING*

***Charter reference—**Utility billing, § 13.06(a).

Sec. 28-51. Billing and collecting of charges; date bills rendered; failure to receive bills; improper billing; fire hydrant rentals; combining statements.

(a) In accordance with any applicable regulations issued pursuant to Section 28-922(d)(3), the Department of Public Utilities shall bill for and collect on behalf of each utility not only charges due from domestic, commercial and industrial users of its services, but similar charges against the City and each department, board, commission, office and agency thereof, including the School Board and each other utility. Bills for service may be rendered monthly, bimonthly, quarterly or on a schedule as determined by the Director, unless otherwise specified in this chapter. For billing purposes, the stormwater utility total annual charge for a given account and fiscal year shall be divided in equal billings, as appropriate, to match the applicable billing schedule. Meters will be read, for billing purposes, either monthly or bimonthly, as elected by the Director, and readings will be made, as near as practicable, every 30 days for those meters read monthly and every 60 days for those read bimonthly. Bills rendered during the months between the regular bimonthly meter reading dates will be estimated from the best information available. When the Director is unable to read a meter after reasonable effort or due to circumstances beyond control, the customer's bill shall be estimated from the best information available and the billing adjusted when the meter is read. Failure to receive a bill shall not exempt a customer from liability for payment of bills or from this chapter. It shall be the responsibility of the owner, occupant or consumer to notify the department of failure to receive a bill for any reason and to advise the Department whenever it is suspected that charges for gas, stormwater, water, or

wastewater or any combination used, consumed or wasted are improperly billed. The correct charges for gas, stormwater, water or wastewater or any combination used, consumed or wasted which have not been billed or which have been billed improperly shall be determined at the discretion of the Director from meter readings, from prior average consumption for a period as long as deemed advisable, or from the best information available to establish such charges. The rates to be charged the City and its departments, boards, commissions, offices and agencies, as provided in this subsection, for water and gas and wastewater shall be the same as those charged to other customers, except that the charges to be made for the use of water for public fire protection shall be in the form of an annual rental, to be paid by the Department of Fire and Emergency Services, for each fire hydrant based on the proportion of the valuation of the water utility properly allocable to fire protection.

(b) For billing purposes, the Director may combine a customer's billings for water, wastewater, stormwater, gas services and other billings and may establish the order in which payments will be applied to the different charges. The consolidated bill shall clearly set forth the charges assessed for each service, and the Director shall treat the charges assessed for each service as a separate bill for purposes of determining whether a customer's individual residential water service may be discontinued pursuant to Section 28-57(b) and whether a customer's individual residential gas service may be discontinued pursuant to Section 28-58.

(c) Any gas, water, wastewater or other monthly service charge, monthly minimum charge or monthly customer charge established pursuant to this chapter shall be billed each month, except that, if the billing period is less than 15 days, such charge shall be prorated by dividing the published charge by 30 days, times the number of days of service for that month. The Director shall promulgate rules and regulations pursuant to Section 28-26 to identify which monthly utility charges established pursuant to this chapter shall be subject to prorating pursuant to this section.

(Code 1993, § 29-181; Code 2004, § 106-71; Code 2015, § 28-51; Ord. No. 2009-60-83, § 2, 5-26-2009; Ord. No. 2013-139-136, § 2, 7-22-2013)

Sec. 28-52. Notice for connection by user.

Owners, occupants or consumers desiring to apply for gas service, water service, wastewater service or any combination to any premises under contracts that may be terminated at the will of the parties thereto shall apply to the Department of Public Utilities for such service at least three days prior to the time such service is desired.

(Code 1993, § 29-182; Code 2004, § 106-72; Code 2015, § 28-52)

Sec. 28-53. Notice of disconnection by user.

Owners, occupants or consumers desiring to discontinue the supply of gas or water or both to any premises under contracts that may be terminated at the will of the parties thereto shall give notice to that effect at least five days prior to the time discontinuance of such service is desired. All gas or water, or both, used, consumed or wasted on such premises, including the five-day period subsequent to the receipt of such notice, unless cut off before the expiration of the five-day period, shall be paid for by the person having the contract with the City.

(Code 1993, § 29-183; Code 2004, § 106-73; Code 2015, § 28-53)

Sec. 28-54. Deposit; refund when account satisfactory.

Except as otherwise provided by the Code of Virginia, Title 15.2, Ch. 21, Art. 2 (Code of Virginia, § 15.2-2109 et seq.), the Director may require a deposit in advance by any owner, occupant or consumer of an amount deemed adequate to secure the payment of sums that may become due on account of gas or water, or both, used, consumed or wasted, provided that the Director may refund the deposit so made to every customer who is not in default in the payment of charges for gas or water consumed and whose payment record for gas and water consumed has been good for a period of one year or more or to each customer with less than one year's service who requests that the customer's service be finalized. The Director is authorized to pay interest on all gas and water customer deposits. The rate shall be set by the Director on July 1 of each fiscal year and shall be determined by dividing the actual interest income earned on utilities operating cash by average utilities operating cash for the preceding fiscal year, provided that in no event shall interest paid on deposits exceed eight percent. The rate in effect when the deposit is refunded shall be the rate used to compute the amount of interest paid to the customer for the entire term that the City held the deposit. Interest will not be allowed for deposits held less than six months. If at any time satisfactory payment record is not maintained by any customer using gas or water, the Director may again require

such deposit, and the Director may refuse such service until the account is brought to a current status and the deposit is again made.

(Code 1993, § 29-184; Code 2004, § 106-74; Code 2015, § 28-54; Ord. No. 2017-098, § 1, 5-22-2017)

State law reference--Fees and charges for water and sewer services provided to a tenant or lessee of the property owner, Code of Virginia, § 15.2-2119.4.

Sec. 28-55. Form of bill; place of payment.

Bills for gas, stormwater, water and wastewater service furnished shall be rendered on schedules prescribed by the Director and shall be paid at the central office or at such substations as the Director may deem advisable to establish, which substations the Director is hereby authorized to establish, or may be mailed to the Department of Public Utilities in the self-addressed remittance envelopes furnished with the bills.

(Code 1993, § 29-185; Code 2004, § 106-75; Code 2015, § 28-55; Ord. No. 2013-139-136, § 2, 7-22-2013)

Sec. 28-56. Time of payment.

Bills for gas, stormwater, water or wastewater service or any combination used, consumed or wasted by owners, occupants or consumers shall become due upon presentation.

(Code 1993, § 29-186; Code 2004, § 106-76; Code 2015, § 28-56; Ord. No. 2013-139-136, § 2, 7-22-2013)

Sec. 28-57. Disconnection for nonpayment; notice.

(a) When a bill for gas service charges other than for individual residential gas service billed under the RS rate schedule as specifically provided, remains unpaid for at least 30 days after the date appearing on the bill, the supply of gas may be stopped to the premises in respect to which the default exists, so long as the premises are occupied by the owner, occupant or consumer who is in default on account of nonpayment of any such bill or so long as the owner who is liable therefor is in such default, and the Director may proceed to collect the bill or portion thereof in any manner or by any process allowed by law. However, in no case shall the supply of gas be stopped or proceedings be taken to collect the bill until ten days after a written notice has been mailed to the owner, occupant or consumer who is in default on account of nonpayment of any such bill. The Director may refuse to provide or may discontinue gas service to any premises, other than for individual gas service billed under the RS rate schedule as specifically provided, until all indebtedness is paid in full or secured to the satisfaction of the Director.

(b) When a bill for water service or wastewater service or any portion thereof remains unpaid for at least 60 days after the date appearing on such bill, the supply of water service or wastewater service, or both, may be stopped to such premises in respect to which such default exists, so long as such premises are occupied by the owner, occupant or consumer who is in default on account of nonpayment of any such bill, and the Director may proceed to collect the bill or portion thereof in any manner or by any process allowed by law. However, in no case shall the supply of water service or wastewater service, or both, be stopped or proceedings be taken to collect the bill until ten days after a written notice has been mailed to the owner, occupant or consumer who is in default on account of nonpayment of any such bill. The Director may refuse to provide or may discontinue water service or wastewater service, or both, to any other premises of the owner, occupant, or consumer who is in default until all indebtedness is paid in full or secured to the satisfaction of the Director.

(Code 1993, § 29-187; Code 2004, § 106-77; Code 2015, § 28-57; Ord. No. 2016-166, § 1, 6-27-2016)

Sec. 28-58. Gas service to residential customers billed under RS rate schedule; disconnection for nonpayment; notice.

When a bill for gas service charges or any portion thereof rendered to a customer for service provided at such customer's individual residence, billed under the RS rate schedule, remains unpaid for 30 days after the date appearing on the bill, the supply of gas may be stopped to such individual residential premises in respect to which the default exists, so long as the premises are occupied by the owner, occupant or consumer who is in default on account of nonpayment of any such bill or so long as the owner who is liable therefor is in such default, and the Director may proceed to collect the bill or portion thereof in any manner or by any process allowed by law. However, in no case shall the supply of gas to such individual residence be stopped or proceedings taken to collect the bill until ten days after a written notice has been mailed to the owner, occupant or consumer who is in default on account of nonpayment of any such bill. The Director may refuse to provide or may discontinue gas service to any other

such residential premises until all indebtedness is paid in full or secured to the satisfaction of the Director.

(Code 1993, § 29-188; Code 2004, § 106-78; Code 2015, § 28-58)

Sec. 28-59. Charge for reconnection of gas and water meters; charge for restoration.

(a) When the supply of gas or water, or both, shall be stopped to any premises for nonpayment of the bill therefor, the entire amount of the bill shall become due and payable immediately, including charges for stormwater and wastewater services and other City fees, and the owner or occupant of such premises or the consumer thereof shall pay the entire amount of the bill or make arrangements with and satisfactory to the Director for the payment of any such bill and a service reconnection charge as set forth in this subsection before such service is restored.

Service reconnection charges:	
For gas service	$35.00
For water service	$35.00
For both gas and water service	$70.00

(b) When the supply of gas or water, or both, has been stopped for nonpayment of a bill, and the gas or water meter, or both, have been removed from service lines, the entire amount of the bill shall become due and payable immediately, including charges for stormwater and wastewater services and other City fees, and the owner, occupant or consumer in default shall pay a service restoration charge as set forth in this subsection before such service may be restored.

Service restoration charges:	
For gas service	$35.00
For water service	$35.00
For both gas and water service	$70.00

(c) A service technician who has been dispatched to a location to either disconnect gas or water service or to remove a gas or water meter may accept from the owner, occupant or consumer in default payment of the entire past due amount. However, in order to avoid such service disconnection or meter removal, the owner, occupant or consumer shall also be charged and pay a fee of $35.00 for each service scheduled for disconnection for the acceptance of the late payment by the service technician.

(d) When the entire amount of a bill has been paid, together with the appropriate restoration service charge, or satisfactory arrangements are made for the payment of such bill, the service will be restored in the regular course of business on a succeeding workday. Restoration of such service shall not be required on the same day the bill and restoration charge are paid.

(Code 1993, § 29-189; Code 2004, § 106-79; Code 2015, § 28-59; Ord. No. 2013-139-136, § 2, 7-22-2013)

Sec. 28-60. Charge for waste; refund.

(a) Customers shall be charged for all water and gas that passes through their respective water and gas meters, whether the water and gas is used, consumed or wasted. However, upon a customer's written request, the Director shall refund to the customer a portion of any monthly water and wastewater charges that reflect excess water use if the customer satisfies the Director that the customer:

(1) Did not willfully or negligently cause or allow excess water use, or the cause of the excess water use is unknown;

(2) Has not beneficially used excess water; and

(3) Has acted diligently and reasonably to limit the amount of water wasted and to prevent additional waste.

(b) The Director shall promulgate rules pursuant to Section 28-26 to implement this section. Among other things, the rules:

(1) Shall establish guidelines for determining whether a customer's water and wastewater bills reflect excess water use;

(2) May set forth the maximum number of times a customer may request and receive a refund during any specific time period; and

(3) May limit the portion or amount of the customer's excess water or wastewater charges that can be refunded.

(Code 1993, § 29-190; Code 2004, § 106-80; Code 2015, § 28-60)

Sec. 28-61. Charges based on average consumption when gas or water meter fails to record.

If a gas or water meter fails to register or record properly the quantity of gas or water used, consumed or wasted on any premises for any cause and the owner or occupant of such premises or the consumer thereof has received the usual or necessary supply of gas or water during the time of such failure, the Director may charge such owner, occupant or consumer for such quantity of gas or water used, consumed or wasted as is shown to be the average amount of gas or water used, consumed or wasted on such premises for the preceding six months or for a longer period if deemed proper by the Director. Whenever this information is not available, the amount to be charged shall be determined by the Director from the best information available.

(Code 1993, § 29-191; Code 2004, § 106-81; Code 2015, § 28-61)

Sec. 28-62. Wastewater charges based on average consumption when meter fails to record.

If a meter fails to register or record properly the quantity of water used or sewage waste and the owner or occupant of such premises has received the usual or necessary sewer service during the time of such failure, the Director may charge such owner or occupant for such service as is shown to be the average amount used on such premises for the preceding six months or for a period deemed proper by the Director.

(Code 1993, § 29-340; Code 2004, § 106-82; Code 2015, § 28-62)

Sec. 28-63. Charge for meter reread.

Upon a customer's request, the Department, during any 12-calendar-month period, will perform one additional reading of the customer's gas meter and one additional reading of the customer's water meter, at no additional charge to the customer. The customer shall pay the Director a fee of $20.00 for any additional requested readings during the 12-month period, provided that no fee shall be assessed for an additional reading if the Director determines that the original reading is inaccurate.

(Code 1993, § 29-191.1; Code 2004, § 106-83; Code 2015, § 28-63)

Sec. 28-64. Permitting lawful inspection, repairs and compliance.

Every person in or on any premises supplied with gas, stormwater, water or wastewater service or any combination and the owner or occupant thereof shall permit any authorized agent or employee of the City exhibiting proper credentials to enter upon such premises at any and all times:

(1) To examine the service connection, meter or other gas or water equipment or appliances or pipes and connections in place for wastewater discharge;

(2) To examine best management practices or stormwater credits;

(3) To remove or repair the connection, meter, other equipment or appliances or pipes and connections; or

(4) For the purpose of ascertaining whether or not the provisions of law or rules or regulations of the Director are being complied with or violated.

(Code 1993, § 29-192; Code 2004, § 106-84; Code 2015, § 28-64; Ord. No. 2013-139-136, § 2, 7-22-2013)

Sec. 28-65. Interest charge on unpaid balances; delinquencies.

(a) There is hereby established and imposed an interest charge on unpaid balances of statements tendered for water, wastewater, stormwater and gas purchased from the Department. If a statement tendered for water, wastewater, stormwater or gas due and payable to the City remains unpaid as of the due date specified in such statement, which shall be as close to 30 days as is practicable from the date of such statement, such payment is delinquent and immediately becomes subject to an interest charge of 0.83 percent of the unpaid balance. For each billing period subsequent to the date upon which the initial interest charge is imposed and becomes payable, the unpaid balance shall become subject to an additional interest charge of 0.83 percent. However, for any residential customer who either has an existing special agreement or makes a special agreement with the Department and who is in compliance with such special agreement, there will be no interest charge. For any residential customer, the Department may, in its discretion and for good cause shown, waive an interest charge. The Department shall promulgate regulations in accordance with Section 28-26 for the implementation of this subsection.

(b) So long as any person who has executed a budget plan agreement with the Department keeps all required budget plan payments current, no interest charge shall be imposed because charges exceed those estimated for the budget plan agreement; however, a budget plan customer who fails to pay the required monthly charges or to pay the account in full at the time the budget account customer has agreed to pay such account in full shall then be subject to the imposition of a monthly interest charge of 0.83 percent on the unpaid balance.

(c) The interest charges provided for in this section shall in no way limit or be limited by the Department's remedies, including, but not limited to, discontinuation of service, for a customer's failure to pay for utility services in full and when due.

(Code 1993, § 29-193; Code 2004, § 106-85; Code 2015, § 28-65; Ord. No. 2009-60-83, § 2, 5-26-2009)

Sec. 28-66. Charges for service to constitute lien; enforcement.

(a) All fees, charges, and assessments for gas, stormwater, water and wastewater services shall be a lien on the real estate served by the gas, stormwater, water and wastewater systems. Where residential real estate is involved, no lien shall attach unless:

(1) The user of the gas, stormwater, water or wastewater service is also the owner of the real estate; or

(2) The owner of the real estate negotiated or executed the agreement by which such gas, stormwater, water or wastewater service was provided to the property.

(b) The Director may periodically certify unpaid charges, including penalties and interest, to the Clerk of the Circuit Court, who shall docket the property that received the utility service in the appropriate lien book. No unpaid charges for gas, stormwater, water or wastewater service shall be certified and no lien shall be docketed related thereto until all or any portion of the unpaid service account has been outstanding for a period of at least 90 days.

(Code 1993, § 29-194; Code 2004, § 106-86; Code 2015, § 28-66; Ord. No. 2013-139-136, § 2, 7-22-2013)

Sec. 28-67. Fee or service charge for returned check or draft.

A fee or service charge in the maximum allowed as permitted by Code of Virginia, § 15.2-106, is hereby imposed upon and shall be collected from each person or other entity, regardless of form or nature, uttering, publishing or passing to the City, in payment of any bill or statement tendered for services or commodities provided by the City or as a deposit required for obtaining such service or commodities from a City-owned or -operated utility, a check or draft, if such check or draft shall be returned to the City because of insufficient funds in the account upon which drawn, because there is no such account, or because the account upon which drawn has been closed prior to the time such check or draft is presented for payment.

(Code 1993, § 29-2; Code 2004, § 106-87; Code 2015, § 28-67; Ord. No. 2008-164-153, § 1, 6-23-2008)

Cross reference—Service fee or charge for returned check or draft issued to City, § 12-4.

Sec. 28-68. Special or customized billing formats; reports and bill management services.

(a) Upon a customer's request, the Department may provide the customer with specialized or customized billing formats and reports and with energy and consumption management services. The customer shall pay the Director a fee as set forth in this subsection for monthly reporting and bill management services; for programming and other technical services; and for data entry, account analysis and report development services; plus cost for

materials.

For monthly reporting and bill management services, per hour	$50.00
For programming and other technical services, per hour	$90.00
For data entry, account analysis and report development services, per hour	$30.00

(b) The Department's services provided pursuant to this section shall be subject to rules and regulations promulgated by the Director pursuant to Section 28-26. The rules and regulations may specify, among other things, customer eligibility criteria for the services authorized by this section. The Department's services provided pursuant to this section and the rules and regulations promulgated to implement the program shall be consistent with the City's authority to operate its utilities and with industry practice for regulated utilities.

(Code 1993, § 29-87; Code 2004, § 106-88; Code 2015, § 28-68)

Sec. 28-69. Special account for receipt of funds; distribution of funds.

A special fund or account shall be established by the Director of Finance into which shall be paid or credited all sums required by this chapter to be paid to the City by the owners of premises when such sums are paid or collected as provided in this chapter. There shall be drawn from such special fund or account annually all funds necessary to restore to the accounts from which funds were drawn to defray the cost of doing the work required by this chapter to be paid for by the owners of premises.

(Code 1993, § 29-20; Code 2004, § 106-89; Code 2015, § 28-69)

Sec. 28-70. Public utilities, access and easements on locality's land.

(a) Whenever any property situated in the City contiguous to its corporate limits is used for dwelling purposes or is restricted in its use by the City's comprehensive zoning plan for such purposes and any property contiguous thereto situated in a locality is permitted to be used for commercial, shopping, business or industrial purposes:

(1) No sewer, gas or water or electric wire, pole or conduit shall be installed, maintained or operated by the City nor shall sewage disposal, gas, water or electric service be furnished by the City to or for such property situated in the locality or otherwise in connection with the use thereof, unless authorized by the City Council by ordinance, anything in this Code or other provision of law to the contrary notwithstanding.

(2) No street, alley, road or other means of access to or from the property situated in the locality shall be opened, constructed or maintained by the City through any property in the City, unless authorized by the City Council by ordinance.

(3) No land or easement in lands shall be acquired or the dedication thereof shall be accepted by the City, either independently or as a part of a plan of subdivision of land or otherwise, for the purpose of providing such services or means of access, unless authorized by the City Council by ordinance, anything in this Code or other provision of law to the contrary notwithstanding.

(4) Whenever property in a locality is separated from property in the City by a street, alley, road or other means of access, such property shall be deemed to be contiguous for the purposes of this section.

(b) Nothing contained in this section shall be construed to affect any existing contract or deed relating to the subject matter of subsections (a)(1), (2) and (3) of this section.

(Code 1993, § 29-1; Code 2004, § 106-90; Code 2015, § 28-70)

Charter reference—Powers of City relating to public works and utilities, § 2.03.

Sec. 28-71. Authority of City to require alteration or removal of existing work and equipment.

Whenever public improvements such as the paving, repaving, widening or relocation of streets; the installation or changing of sewers, pipes, cables, wires, conduits; and other work or equipment belonging to the City shall make

it necessary to move, alter or remove existing work and equipment, either permanently or temporarily, the owner of the work or equipment shall proceed to make the necessary changes promptly and at the owner's expense.

(Code 1993, § 29-395; Code 2004, § 106-91; Code 2015, § 28-71)

Sec. 28-72. Duty of building owners to make City water and sewer service connections; duty of owner or tenant to apply for water service.

Owners and tenants of premises with occupied buildings thereon shall comply with the following applicable requirements:

(1) The owner of a premises with a newly constructed or an existing building thereon shall apply to the Department of Public Utilities for a water service connection and a sewer service connection prior to occupancy of the building, provided that an individual water supply or an individual sewage disposal system approved by the Director of Public Health may be used if the Department of Public Utilities cannot provide water or sewer service.

(2) Unless otherwise authorized in accordance with rules and regulations made pursuant to Section 28-26, the occupants of all buildings to which a City water connection has been made shall use City water to flush all toilets and to carry all wastewater and sewage into the City sewer system or individual sewage disposal system. Any rules and regulations proposed by the Director pursuant to this subsection shall take into account, inter alia, consultations with the City's Bureau of Permits and Inspections, the Virginia Department of Health, the Virginia Department of Environmental Quality, and other appropriate regulatory agencies of the Commonwealth.

(3) An application to the Department of Public Utilities to provide water service may be made by the owner or tenant of the premises. However, an application to provide water service on one meter to two or more dwelling units may be made only by the owner or agent. The owner or agent shall be required to furnish City water to tenants when one water meter serves two or more dwelling units.

(4) If water service to an occupied building is terminated by the Department of Public Utilities as a result of a delinquent water or wastewater bill, a notice may be served by the District Health Department upon the person in whose name the bill is listed requiring that satisfactory arrangements be made with the Department of Public Utilities for payment of the delinquent bill and restoration of water service. Service of the notice shall be made by mailing the notice to the last known post office address of the person in whose name the bill is listed, by serving the notice in person on the person in whose name the bill is listed, or by serving the notice upon a responsible person above the age of 16 years who is an occupant of the building in which the person in whose name the bill is listed lives or works. If compliance with the notice does not occur within the prescribed time or acceptable arrangements for compliance are not made with the District Health Department, the person in whose name the bill is listed may be summoned to court.

(5) Notwithstanding the requirements of subsections (1) and (2) of this section, owners of premises in which another water supply and sewage disposal system, approved by the District Health Director, was installed and used prior to January 1, 1970, shall not be required to connect to the City water and sewer systems as long as the quality of the water and the maintenance and operation of the sewage disposal system are not detrimental to public health and safety.

(6) The owner of a premises in the City may drill a well and use the water for drinking purposes only, provided the well and the water are approved by the District Health Director. Dug wells shall not be permitted in the City.

(Code 1993, § 29-58; Code 2004, § 106-92; Code 2015, § 28-72; Ord. No. 2015-203-193, § 1, 9-28-2015)

Sec. 28-73. Title to facilities.

Title to all gas, stormwater, water and wastewater/sewer mains, service connections and meters located in streets and alleys within and without the City, for which the City has the duty of operation and maintenance, shall vest in the City, regardless of who shall pay the cost thereof.

(Code 1993, § 29-21; Code 2004, § 106-93; Code 2015, § 28-73; Ord. No. 2013-139-136, § 2, 7-22-2013)

Secs. 28-74—28-104. Reserved.

ARTICLE IV. GAS

DIVISION 1. GENERALLY

Sec. 28-105. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commodity charge and *purchased gas cost charge* mean the total cost the utility pays to purchase, store and transport the gas to the City gate. The City does not make a profit from the commodity charge.

Degree day heating means a measure of the coldness of the weather experienced, based on the extent to which the daily mean temperature falls below 65 degrees Fahrenheit.

Gas interruption means any curtailment, interruption or discontinuance of gas deliveries to customers.

Natural gas means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in porous geological formations beneath the earth's surface, often in association with petroleum. The principal constituent is methane, CH_4.

Storage gas means gas purchased during the months of April through October and held in underground storage facilities. This gas is withdrawn from storage for use during the high demand winter months.

(Code 2004, § 106-121; Code 2015, § 28-105)

Cross reference—Definitions generally, § 1-2.

Sec. 28-106. Weather normalization clause.

(a) The accounting system of the gas utility shall include a weather normalization clause for adjustment of revenues that are greater than or less than the revenues required to cover authorized expenses and the authorized rate of return, because of colder or warmer than normal weather.

(b) The Director shall calculate a proposed weather normalization clause adjustment for each fiscal year and shall forward such calculated adjustment to the Chief Administrative Officer. Such adjustments shall be subject to the approval of the City Council. The director shall record any weather normalization clause adjustment approved by the City Council as an accounts receivable or accounts payable for the gas utility with a corresponding adjustment to gas utility revenues for the purpose of complying with generally accepted accounting principles.

(c) The Director shall adopt regulations in accordance with Section 28-26 to implement the requirements of this section in a manner comparable to implementation of other weather normalization clauses in the gas utility industry.

(Code 1993, § 29-4; Code 2004, § 106-122; Code 2015, § 28-106; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-107. Limitation of City liability for failure of gas supply.

The City shall not be liable to any consumer or other person for damages which may be occasioned to such consumer or person or the property thereof because of the failure of the supply of gas in reaching the premises of such consumer in whole or in part.

(Code 1993, § 29-17; Code 2004, § 106-123; Code 2015, § 28-107)

Sec. 28-108. Billing and payment of estimated costs for construction, alteration or repair of mains, connections or meters.

Upon the application of owners or occupants of premises for the construction, installation, extension, enlargement, alteration or repair of any gas main, service connection or meter for which owners or occupants of premises are required by this article to pay, the Director shall calculate the estimated cost of such construction, installation, extension, enlargement, alteration or repair and of the restoration of paving disturbed on account thereof, which shall include the estimated cost of materials furnished and other expenses incurred by the City in performing such work using the construction schedule developed by the Director. The Director shall bill the

estimated costs to the owner or occupant, and the owner or occupant so billed shall pay the City the billed amount. The owner or occupant may elect to make installment payments as specified in the rules and regulations adopted pursuant to Section 28-26.

(Code 1993, § 29-19; Code 2004, § 106-124; Code 2015, § 28-108)

Sec. 28-109. Permit required for addition or alteration of fixture, appliance or equipment.

No plumber or other person shall make any addition to or alteration of any fixture, appliance or equipment connected directly or indirectly with the gas distribution system without first having received a written permit from the Director to do so.

(Code 1993, § 29-23; Code 2004, § 106-125; Code 2015, § 28-109)

Sec. 28-110. Construction or extension of mains or services; incentive programs.

(a) The Director shall determine when gas mains or services are to be constructed or extended within or without the corporate City limits. Upon application of an owner or occupant for such an extension, the estimated net revenue reasonably expected to accrue to the City from such construction in each specific instance and the estimated cost of making the extension shall be calculated by the Director using the construction schedule developed by the Director. The Director annually shall determine construction costs and annually shall develop and publish a schedule of fees. The Director shall review market conditions at least annually and establish a period of time for the calculation of estimated revenue. If the estimated net revenue for such period is equal to or exceeds the estimated cost of the extension, the extension may be made at the expense of the City. If the estimated net revenue is less than the estimated cost of the extension, the Director may enter into an agreement to construct the extension, provided that the owner or occupant of premises to be served thereby shall deposit with the Director a sum of money equal to the amount by which the estimated cost of such construction or extension exceeds the estimated net revenue reasonably to be expected during the applicable period. Such sums shall be paid into and held in a special account of the gas utility, upon the terms and conditions set out in Sections 28-111 and 28-112. The Director shall bill the fee to the owner or occupant, and the owner or occupant so billed shall pay the City the billed amount. The Director may receive installment payments as specified in the rules and regulations adopted pursuant to Section 28-26.

(b) The Director may extend gas mains or services in areas where, in the Director's opinion, potential development will provide future profitable gas sales and where the requirements set forth in subsection (a) of this section are not applicable due to the method of development of the property. The Director may enter into agreements to construct such extensions in order to protect the utility's revenue requirements.

(c) The Director may implement an incentive rebate program for energy audits, the installation of energy efficient natural gas equipment, insulation and other conservation measures. All existing gas utility customers who are located on existing gas mains shall be eligible for the program. The incentive rebate program shall be contingent on the availability of funding. The Director shall promulgate rules and regulations pursuant to Section 28-26 to implement the incentive rebate program in accordance with this subsection.

(d) The Director shall implement a gas air conditioning incentive program for the installation and operation of gas air conditioning equipment. Pursuant to the program, the Director may enter into agreements to make capital contributions toward the initial installation of gas air conditioning equipment or the initial conversion of air conditioning equipment to gas fuel. The Director may recover capital contributions made pursuant to the program through surcharges to the customer's gas utility bill. The program's capital contributions shall be funded from monies budgeted for gas main extensions. The Director shall promulgate rules and regulations pursuant to Section 28-26 to implement the program in accordance with this subsection. Such rules and regulations and any agreement entered into pursuant to this subsection shall meet the following requirements:

(1) The gas air conditioning incentive program shall be implemented in a manner to safeguard the program's cost justification and shall result in a reasonable rate of return to the gas utility over the life of the gas air conditioning equipment.

(2) The gas air conditioning incentive program shall be implemented in a manner to minimize the potential for placing private businesses at an undue competitive disadvantage.

(3) The capital contributions advanced by the gas utility pursuant to the gas air conditioning incentive

program shall be adequately secured.

(4) The gas air conditioning incentive program shall be implemented in a nondiscriminatory manner.

(e) The Director shall implement a load management incentive program to retain or obtain loads that promote more efficient use of gas supply and distribution of resources. Pursuant to the program, the Director may enter into agreements to make capital contributions toward the initial installation of efficient gas fired heating or air conditioning equipment or the conversion of existing gas fired heating or air conditioning equipment to more efficient gas fired heating or air conditioning equipment, in applications serving multifamily residential facilities. The Director shall enter into any such agreement only if the Director documents and certifies that the incentive is required in order to retain or obtain the targeted load. The program's capital contributions shall be funded from monies budgeted for gas main extensions. The Director shall promulgate rules and regulations pursuant to Section 28-26 to implement the program in accordance with this subsection. Such rules and regulations shall establish the maximum capital expenditures allowed per qualifying multifamily residential facility and per dwelling unit and shall meet the following requirements:

(1) The load management incentive program shall be implemented in a manner to safeguard the program's cost justification and shall result in a reasonable rate of return to the gas utility over the life of the gas equipment.

(2) The load management incentive program shall be implemented in a manner to improve the gas utility's load factor, to prevent a deterioration of the gas utility's load factor, or to absorb unused capacity or maintain existing loads for the purpose of reducing unit costs.

(3) The capital contributions advanced by the gas utility pursuant to the load management incentive program shall be adequately secured.

(4) The load management incentive program shall be implemented in a manner to minimize the potential for placing private businesses at an undue competitive disadvantage.

(5) The load management incentive program shall apply only to equipment that has energy efficiency ratings which meet or exceed Federal and State standards.

(Code 1993, § 29-26; Code 2004, § 106-126; Code 2015, § 28-110; Ord. No. 2010-225-210, § 1, 11-22-2010; Ord. No. 2014-16-25, § 1, 2-24-2014)

Sec. 28-111. Credit for money paid by customers hooked onto extension.

For such period as may have been calculated and determined as applicable for a particular extension of gas mains or services, after the installation of the extension, the party with whom the contract has been executed shall annually receive credit for all sums paid to the City for gas used by the original and any other customers that may during such period hook onto the extension in excess of the estimated gross revenue. Such credit shall be refunded to the applicant for such extension. No refund shall exceed in the aggregate the sum held in such special account, and the City shall not pay interest on such funds or any part thereof.

(Code 1993, § 29-27; Code 2004, § 106-127; Code 2015, § 28-111)

Sec. 28-112. Disposition of excess revenues from extensions.

If, upon the expiration of the applicable period of extension referred to in Section 28-111, there remains a credit balance of funds in excess of sums so returned or to be returned in accordance with the agreement applicable to such extension, such balance and any interest that may have accrued thereon shall become the absolute property of the City and shall then be paid into the Gas Renewal Fund.

(Code 1993, § 29-28; Code 2004, § 106-128; Code 2015, § 28-112)

Sec. 28-113. Records of distribution systems, mains, facilities and connections.

The Director shall keep on file suitable records showing the size and location of the gas distribution systems, mains, facilities and equipment, and of all service connections.

(Code 1993, § 29-42; Code 2004, § 106-129; Code 2015, § 28-113)

Sec. 28-114. Construction of distribution systems.

The Director shall construct mains for the transmission and distribution of gas and shall make extensions, replacements and enlargements of the systems as they become necessary and as funds for such purposes are made available.

(Code 1993, § 29-43; Code 2004, § 106-130; Code 2015, § 28-114)

Sec. 28-115. Sale of gas.

The Director is authorized to sell and deliver gas to consumers within and without the corporate City limits at rates prescribed by the City Council therefor and in accordance with and subject to this article and other applicable laws and ordinances and rules and regulations lawfully made and promulgated by the Director pertaining thereto.

(Code 1993, § 29-44; Code 2004, § 106-131; Code 2015, § 28-115)

Sec. 28-116. Discontinuance of service.

The Director may at any time cut off the supply of gas through mains or connections thereto within or without the corporate City limits when such action is deemed necessary.

(Code 1993, § 29-47; Code 2004, § 106-132; Code 2015, § 28-116)

Secs. 28-117—28-145. Reserved.

DIVISION 2. SERVICE CONNECTIONS, PIPES AND METERS

Sec. 28-146. Approval of gas pipe materials by Director.

All gas pipes installed on or to premises shall be of materials approved by the Director.

(Code 1993, § 29-56; Code 2004, § 106-156; Code 2015, § 28-146)

Sec. 28-147. Owner's responsibility for damage; disconnection for nonpayment.

Owners and occupants of premises connected directly or indirectly with the gas distribution system shall be responsible for all damages to service connections, meters and equipment occasioned thereto by the negligence of such owners and occupants, their agents, servants and employees. The Director shall investigate and determine the responsibility for damages to such connections, meters and equipment, shall make or cause to be made necessary renewals or repairs thereto and shall collect the cost of them from owners or occupants responsible therefor. If such cost and expense is not paid within 30 days after presentation of a bill therefor, the Director shall cause the supply of gas to be stopped, and the service stopped shall not thereafter be furnished to such premises for such owner or occupant until such cost and expense shall have been paid.

(Code 1993, § 29-60; Code 2004, § 106-157; Code 2015, § 28-147)

Sec. 28-148. Size, character and arrangement of connections.

The Director shall determine the size, the character and the arrangement of all gas connections installed within or without the City.

(Code 1993, § 29-65; Code 2004, § 106-158; Code 2015, § 28-148)

Sec. 28-149. Application for connection.

Application for gas connections shall be made to the Director on forms provided by owners of premises to be served or by the occupants thereof through licensed plumbers, unless otherwise authorized in Chapter 5 which pertains to buildings and building regulations. No gas shall be connected until the Director shall approve such application.

(Code 1993, § 29-67; Code 2004, § 106-159; Code 2015, § 28-149)

Sec. 28-150. Disconnection of meter or change or alteration of connection without permission.

No gas meter shall be disconnected from a service connection, moved or disturbed in any manner by any person nor shall any service connection be changed or altered in any manner without the written permission of the Director.

(Code 1993, § 29-68; Code 2004, § 106-160; Code 2015, § 28-150)

Sec. 28-151. Service establishment charges.

When application for establishment of service is made for gas service for an existing or for a new structure, the owner, occupant or consumer, in order to defray the cost incurred in the establishment of such service, shall be charged and shall pay to the Director a service establishment charge of $35.00 for gas service. Such charge shall be made and shall be paid each time such owner, occupant or consumer may have gas service established at a location, unless such charge is waived by the Director under guidelines promulgated by the Director as authorized in Section 28-26. If the customer requests same-day service to connect or reconnect gas service at a location, the customer shall pay to the Director a fee of $35.00 in addition to any other charges assessed pursuant to this section or otherwise by this chapter.

(Code 1993, § 29-69; Code 2004, § 106-161; Code 2015, § 28-151)

Sec. 28-152. Installation of service pipes and meters.

The Director shall, with the consent of owners or occupants of premises and at the expense of the City, lay gas service pipes to points of connection with service meters to serve premises subject to such limitations as to size, length and cost as the Director may establish in accordance with the procedure of Section 28-26. The City shall not be liable for any injury or damages to persons or premises incidental to, arising out of or resulting from the installation, operation or maintenance of such service pipes or meters.

(Code 1993, § 29-70; Code 2004, § 106-162; Code 2015, § 28-152)

Sec. 28-153. Maintenance of service pipes.

The Director shall, at the expense of the City, maintain gas service pipes to points of connection with service meters but shall not be required to do any extensive or expensive cutting of walls, driveways, floors or appurtenances of buildings.

(Code 1993, § 29-71; Code 2004, § 106-163; Code 2015, § 28-153)

Sec. 28-154. Installation and maintenance of meters.

For each separate gas service connection, the City shall furnish, install and maintain at its cost and expense, except as otherwise provided in Section 28-147, a service meter to measure the quantity of gas used, consumed or wasted on the premises served.

(Code 1993, § 29-80; Code 2004, § 106-164; Code 2015, § 28-154)

Sec. 28-155. Location of meter provided by owner.

The owner shall provide without cost to the City a place for the installation and maintenance of the gas service meter, which shall be satisfactory to and approved by the Director.

(Code 1993, § 29-81; Code 2004, § 106-165; Code 2015, § 28-155)

Sec. 28-156. Relocation of meter.

Upon the written request of the owner or occupant of premises to move a gas service meter from one place to another or should a change in the use of a premises or structural alteration therein render a place in which such meter is installed unsatisfactory to the Director, the gas service meter shall be moved to another place satisfactory to the Director. The costs to be paid by the owner or occupant for moving a gas service meter shall be established by the Director.

(Code 1993, § 29-82; Code 2004, § 106-166; Code 2015, § 28-156)

Sec. 28-157. Termination of pipes connecting with meter.

All pipes for the connection of all gas meters shall be terminated at the place approved therefor by the Director and in a manner satisfactory to the Director.

(Code 1993, § 29-83; Code 2004, § 106-167; Code 2015, § 28-157)

Secs. 28-158—28-182. Reserved.

DIVISION 3. RATES

Sec. 28-183. Scope.

Natural gas or natural gas combined with any other gas shall be supplied to consumers in accordance with the schedules of rates and upon the terms and conditions set forth in this division, and consumers shall be charged and shall pay for all natural gas or natural gas combined with other gas supplied at the rates prescribed in such schedules.

(Code 1993, § 29-230; Code 2004, § 106-191; Code 2015, § 28-183)

Sec. 28-184. Deposit and contract required.

No gas shall be supplied to any consumer until the consumer shall have made the cash deposit or provided other security determined by the director under Section 28-54, if required, and signed a written contract with the City, when required by the Director, in which the consumer shall promise to pay for all gas used, consumed or wasted on premises therein to be specified at the rates and upon the terms and conditions therefor prescribed by the City Council from time to time. Every consumer shall observe, comply with and be bound by all ordinances, rules, regulations, terms and conditions prescribed for and relating to the use of gas while receiving the service.

(Code 1993, § 29-231; Code 2004, § 106-192; Code 2015, § 28-184)

Sec. 28-185. Establishment of standards for pressures, quantities and quality.

The Director shall establish and record standards of pressures, quantities and quality of gas to be delivered to consumers, which from time to time may be amended, modified or changed whenever the Director deems it necessary or proper to do so, pursuant to Section 28-26.

(Code 1993, § 29-232; Code 2004, § 106-193; Code 2015, § 28-185)

Sec. 28-186. Lighting of heating unit pilot.

A fee of $35.00 shall be charged and paid into the gas utility of the City for lighting a gas heating unit pilot. No fee shall be charged for service for lighting of a heating unit pilot during the period of August 15 through October 31 of any year. Any fee so charged will be credited on the statement for the billing cycle commencing next after such service is provided.

(Code 1993, § 29-84; Code 2004, § 106-194; Code 2015, § 28-186)

Sec. 28-187. Appliance and fixture inspection.

(a) Upon a customer's request, the Department shall inspect the customer's gas appliances, fixtures and piping to ensure that the equipment is working properly and shall perform requested minor adjustments and repairs on the equipment if so requested by the customer. The customer shall pay the Director a fee of $35.00 per hour for labor for such service, with a minimum fee of $35.00, plus costs for materials.

(b) The Department's services provided pursuant to this section shall be subject to rules and regulations promulgated by the Director pursuant to Section 28-26. The Department's services provided pursuant to this section and the rules and regulations promulgated to implement the program shall be consistent with the City's authority to operate its gas utility and with industry practice for regulated gas utilities.

(Code 1993, § 29-85; Code 2004, § 106-195; Code 2015, § 28-187)

Sec. 28-188. Application for change of rate; approval of Director.

A consumer using gas under one of the schedules of rates for gas prescribed by the City Council may apply to the Director in writing for a supply of gas under one or more of the other schedules of rates prescribed in this division. Upon certification of the Director that the consumer is entitled to the benefit of such other rates under this division, gas may be supplied to the consumer at the other rates. However, the other rates shall not be applied to gas used, consumed or wasted on premises of the consumer until after the first regularly scheduled reading of meters in the district in which the premises of the consumer are situated following the certification of the application by the Director.

(Code 1993, § 29-233; Code 2004, § 106-197; Code 2015, § 28-188)

Sec. 28-189. City not required to recommend favorable rates.

Nothing in this article shall be construed to impose upon the City, the Director or any other of its agents and

employees the duty to give notice of or to recommend to a consumer the most favorable rates to which the consumer may be entitled for the supply of gas. No refund shall be made to a consumer of any sum representing the difference between the amount paid at a higher rate and the amount the consumer would have paid at a lower rate.

(Code 1993, § 29-234; Code 2004, § 106-198; Code 2015, § 28-189)

Sec. 28-190. Separate billing for each meter; billing for unmetered gas.

(a) The quantity of gas used, consumed or wasted as measured by every gas service meter shall be separately billed, and the quantities used, consumed or wasted as indicated by separate service meters shall not be combined for the purpose of applying rates applicable to the aggregate amount. However, when more than one service meter is used to supply one or more premises that are continuously adjacent to each other and owned or leased by the same person, whether or not separated by a public street, and in which gas is supplied by the owner to the occupants without making a direct charge therefor or for the owner's sole use, the readings of the several service meters may be combined for the purpose of applying rates applicable thereto.

(b) The quantity of gas used or consumed for providing ornamental gas lighting which is not metered or measured shall be billed in accordance with the rate schedules adopted by Section 28-200.

(Code 1993, § 29-235; Code 2004, § 106-199; Code 2015, § 28-190)

Sec. 28-191. Residential gas service (schedule RS).

The following rates and charges shall apply for gas provided for residential purposes in individual residences, owner-occupied duplexes or nonprofit facilities that provide transitional housing for residential use on a regular basis by homeless persons (other than residences qualifying for "residential gas peaking service"):

SCHEDULE RS

(1) *Application.* This section shall apply to use of service for residential purposes in individual residences, owner-occupied duplexes or nonprofit facilities that provide transitional housing for residential use on a regular basis by homeless persons served by one meter at locations within the service area where service is available.

(2) *Monthly rate.*

a. Monthly rates for gas under schedule RS shall be as follows:

Monthly rates for gas under Schedule RS:			
1	Customer charge (readiness to serve), per month		$13.87
2	Distribution charge:		
	(i)	First 50,000 cubic feet per month per Mcf (1,000 cubic feet)	$5.90
	(ii)	For all additional cubic feet per month, per Mcf	$5.90
	(iii)	Purchased gas cost (per 1,000 cubic feet)	As set by Director pursuant to Section 28-191(2)

b. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas and is subject to monthly adjustments per thousand cubic feet for increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in Section 28-106.

(3) *Minimum charge.* The monthly minimum charge shall be $13.87.

(4) *Utility tax.* Bills rendered under this schedule shall be subject to any applicable utility tax.

(5) *Term of contracts.* Contracts for gas service made under this schedule shall be cancellable at any time. A customer cannot resume service within one month at the same location without paying the prescribed charges during the intervening period in accordance with this section.

(6) *Special provisions.*

a. *Equal monthly and levelized payment plans.* A customer may have the option, with the consent of the Director of Public Utilities, of paying for service taken under this schedule for a limited period in equal monthly or levelized amounts based on the application of the rate to the estimated usage during the period. The Director of Public Utilities shall establish rules and regulations for administering these plans in accordance with Section 28-26. At the discontinuance of service, the customer shall pay or be given credit for the difference between the amount paid and the charges for the actual usages under this rate. This payment or refund shall be made under such arrangements as may be agreed upon by the customer and the Director of Public Utilities.

b. *Discontinuance of service.* A customer who uses gas in accordance with this schedule for space heating exclusively, may discontinue such use. After such use is discontinued, if the customer requests that the service be restored, a charge of $35.00 shall be paid for restoring the service if the request is made within 12 months from the date the service is discontinued.

(Code 1993, § 29-237; Code 2004, § 106-200; Code 2015, § 28-191; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2006-76-144, § 1, 5-30-2006; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-192. Residential gas peaking service (schedule RPS).

The following rates and charges shall apply when the City furnishes gas for residential purposes to customers eligible for "residential gas peaking service":

SCHEDULE RPS

(1) *Application.* This section shall apply to the use of service for residential purposes in individual residences at locations within the service area where service is available and the customer has an electric heat pump installed in such a manner that the gas heating equipment is used for peaking or supplementary purposes.

(2) *Monthly rate.*

a. Monthly rates under schedule RPS shall be as follows:

Monthly rates for gas under the Schedule RPS:			
1.	Customer charge (readiness to serve), per month		$13.87
2.	System charge:		
	(i)	First 50,000 cubic feet per month, per Mcf	$5.90
	(ii)	For all additional cubic feet per month, per Mcf	$5.90
3.	Gas commodity charge, per 1,000 cubic feet		As set by Director pursuant to Section 28-192(2)

b. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas, and is subject to monthly adjustments per thousand cubic feet for increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of

natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in Section 28-106.

(3) *Minimum charge.* The minimum charge for gas under Schedule RPS shall be $13.87 per month.

(4) *Utility tax.* Bills rendered under this section shall be subject to any applicable utility tax.

(5) *Term of contracts.* Contracts for gas service made under this section shall be cancelable at any time, provided that a customer cannot resume service within one month at the same location without paying the prescribed charges during the intervening period in accordance with this section.

(Code 2004, § 106-200.1; Code 2015, § 28-192; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-193. General gas service (schedule GS).

The following rates and charges shall apply to service provided locations subject to billing at the rate for general gas service:

SCHEDULE GS

(1) *Application.* This section shall apply to the use of service for all purposes in other than individual residences, owner-occupied duplexes or nonprofit facilities that provide transitional housing for residential use on a regular basis by homeless persons served by one meter at locations within the service area where service is available.

(2) *Monthly rate.*

a. Monthly rates under schedule GS shall be as follows:

Monthly rates for gas under the Schedule for Small Commercial Gas Sales (GS):			
1.	Customer charge (readiness to serve), per month		$16.38
2.	Distribution charge:		
	(i)	First 50,000 cubic feet per month, per Mcf	$5.33
	(ii)	For all additional cubic feet per month, per Mcf	$5.33
3.	Purchased gas cost (per 1,000 cubic feet)		As set by Director pursuant to Section 28-193(2)

b. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas and is subject to increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in

Section 28-106.

(3) *Minimum charge.* The minimum charge for gas under the Schedule for Small Commercial Gas Sales (GS) shall be $16.38 per month.

(4) *Utility tax.* Bills rendered under this schedule shall be subject to any applicable utility tax.

(5) *Term of contracts.* Contracts for gas service made under this schedule shall be cancellable at any time, provided that a customer cannot resume service within one month at the same location without paying the prescribed charges during the intervening period in accordance with this schedule.

(6) *Special provisions.*

a. *Discontinuance of service.* A customer who uses gas in accordance with this schedule for space heating exclusively, may discontinue such use. After such use is discontinued, if the customer requests that the service be restored, a charge of $35.00 shall be paid for restoring the service if the request is made within 12 months from the date the service is discontinued.

b. *Equal monthly and levelized payment plans.* A customer may have the option, with the consent of the Director, of paying for service taken under this schedule for a limited period in equal monthly or levelized amounts based on the application of the rate to the estimated usage during the period. The Director shall establish rules and regulations for administering these plans in accordance with Section 28-26. At the discontinuance of service, the customer shall pay or be given credit for the difference between the amount paid and the charges for the actual usages under this rate. This payment or refund shall be made under such arrangement as may be agreed upon by the customer and the Director.

(Code 1993, § 29-239; Code 2004, § 106-201; Code 2015, § 28-193; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2006-145-119, § 1, 5-22-2006; Ord. No. 2006-76-144, § 1, 5-30-2006; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2010-140-134, § 1, 6-28-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019; Ord. No. 2019-191, § 1, 7-22-2019)

Sec. 28-194. Large volume general gas service (schedule CIS).

The following rates and charges shall apply for gas furnished to customers qualifying for large volume general gas service:

SCHEDULE CIS

(1) *Application.* This section shall apply to the use of service for all purposes at locations within the service area where service is available.

(2) *Monthly rate.*

a. Monthly rates under schedule CIS shall be as follows:

Monthly rates for gas used under Schedule CIS:		
1.	Customer charge (readiness to serve), per month	$142.41
2.	Demand charge (per month), per 1,000 cubic feet (Mcf)	$14.04
3.	Distribution charge, per Mcf	$3.15
4.	Purchased gas cost (per 1,000 cubic feet)	As set by Director pursuant to Section 28-194(2)

b. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas and is subject to monthly adjustments per thousand cubic feet for

increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in Section 28-106.

(3) *Determination of demand.* The demand may, at the option of the Director of Public Utilities, be determined either by measurement or by estimate.

a. *By measurement.* The demand in any month shall be the highest use of gas in Mcf in any period of 24 consecutive hours as measured by a demand meter.

b. *By estimate.* The demand in any month shall be taken as 1/20 of the Mcf used in such month.

(4) *Billing demand.* The demand in any month shall be the higher of:

a. The demand as determined in such month by measurement or by estimate.

b. The highest billing demand in any of the preceding months of November through April.

For new customers or customers transferring from another rate schedule the highest billing demand in subsection (4)b of this section may, at the option of the Director of Public Utilities, be estimated based on the proposed use of service.

(5) *Utility tax.* Bills rendered under this section shall be subject to any applicable utility tax.

(6) *Term of contracts.* Contracts for gas service made under this schedule shall be one year and may automatically be renewed from year to year unless cancelled by the customer or the Director of Public Utilities upon 30 days' written notice to that effect. Such notice must be given before the beginning of any contract year.

(7) Special provisions.

a. *Restricted use.* The use of gas by customers under this schedule may be restricted by the Director of Public Utilities whenever necessary to supply customers under schedules RS and GS.

(Code 1993, § 29-240; Code 2004, § 106-202; Code 2015, § 28-194; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2006-76-144, § 1, 5-30-2006; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2019-191, § 1, 7-22-2019)

Sec. 28-195. Transportation service (schedule TS).

(a) *Scope.* The gas rates, terms and conditions in this section shall apply to customers provided transportation service under schedule TS.

(b) *Applicability.* Gas service under schedule TS is applicable as follows:

(1) This rate schedule is available throughout the service territory served by the City to all gas owned by a nonresidential customer that is transported to and on the City's gas distribution system. This service is applicable only to customers that take in excess of 12,000 Mcf over a consecutive 12-month period at the delivery point set forth in the service agreement for transportation between the City and the customer (referred to as the "service agreement"). The customer must deliver its gas to the receipt point approved by the City and set forth in the service agreement. Once the City has received the customer's gas at the receipt point, the City will transport the gas, minus the lost and unaccounted for adjustment determined under subsection (g)(2) of this section to the delivery point. This service is available only to those customers who execute a service agreement for the service provided in this section.

(2) Daily balancing service is mandatory for all customers under this rate schedule.

(3) This service requires the installation and use of telemetering equipment at the delivery point. The City shall install, own, and maintain the telemetering and other equipment at the delivery point necessary to

transmit the telemetering information to the City. The customer shall provide the dedicated telephone line necessary for the reliable operation of the telemetering equipment and the transmission of the telemetering information. The City will meter the customer's takes of gas at the delivery point. The customer shall pay for the installation of electronic measurement equipment if measurement equipment is not so equipped. Payment will be required prior to initiation of transportation service.

(c) *Character of service.* The City shall be obligated to deliver gas to the delivery point up to the lesser of the customer's transportation maximum daily quantity (TMDQ) and the daily volume of gas received by the City from the customer at the receipt, point minus the lost and unaccounted for adjustment determined under subsection (g)(2) of this section.

(d) *Service agreement.* A service agreement shall be provided in accordance with the following:

(1) The customer shall execute a service agreement with the City which specifies the TMDQ, the receipt point, the delivery point, and the pressure at the delivery point. The service agreement shall be in the form as attached to this rate schedule on file in the City offices.

(2) The service agreement shall have an initial term of one year and then shall continue in effect for additional terms of one year until terminated by the customer or the City upon at least 30 days' written notice given prior to the end of the initial term or of any additional term.

(3) If a customer takes gas from the City under this rate schedule at more than one delivery point, these delivery points will be included in one service agreement and will be treated as a single delivery point for purposes of the customer charge, the distribution charge, the daily and monthly imbalances and imbalance charges, the TMDQ, and meeting the minimum take requirement to qualify for service under this rate schedule.

(e) *Transportation maximum daily quantity (TMDQ).* After consulting with a customer, the City will assign the customer a TMDQ. This TMDQ will remain in effect for the term of the service agreement unless modified by written agreement of the City and the customer.

(f) *Rates and charges for transportation service.* The customer shall pay the rates and charges each month for gas for transportation service under schedule TS as follows:

Gas rates and charges each month for transportation service under Schedule TS. These amounts do not include the cost of gas received at the receipt point for the customer:			
(1)	Customer charge, per month		$757.58
(2)	Distribution charge:		
	a.	For the amount taken up to 1,500 Mcf, per Mcf	$1.91
	b.	For amounts taken from 1,501 Mcf to 11,500 Mcf, per Mcf	$0.99
	c.	For the amount taken over 11,500 Mcf, per Mcf	$0.70
(3)	Charge for daily imbalance in excess of ten percent, per Mcf		$0.58

(g) *Receipt and delivery.* Receipt and delivery shall be in accordance with the following:

(1) The receipt point shall be at a pipeline City gate station as assigned by the City and as specified in the service agreement.

(2) The City shall retain a percentage of volumes delivered to the receipt point for a lost and unaccounted for adjustment, and the City shall be obligated to deliver at the delivery point only the remainder of the volumes received. As of the effective date of this rate schedule, the percentage of volumes retained shall be 2 1/2 percent.

(h) *Load balancing.* Load balancing shall be in accordance with the following:

(1) The City shall provide the customer with daily balancing service within the parameters set forth in this

subsection.

(2) The customer shall provide the City with good faith, nonbinding nominations when requested by the City.

(3) The customer's daily imbalance shall be equal to the difference between:

a. The volume of gas actually delivered on a day to the receipt point by or on behalf of the customer, minus the lost and unaccounted for adjustment determined under subsection (g)(2) of this section (net daily receipts); and

b. The customer's actual usage as determined from daily meter readings at the delivery point (daily deliveries).

A daily underdelivery shall be deemed to occur whenever net daily receipts are less than daily deliveries. A daily overdelivery shall be deemed to occur whenever net daily receipts are greater than daily deliveries.

(4) The City's charge for daily imbalances is set forth in subsection (f) of this section and shall apply to daily deliveries in excess of 110 percent of net daily receipts or the volume by which daily deliveries are below 90 percent of net daily receipts. The imbalance charge is in addition to and not in lieu of other transportation charges established by this rate schedule.

(5) Failure of the customer's transportation gas to arrive at the City gate shall result in one of two possibilities. If enough system supply is available, the customer shall purchase all gas in excess of the customer's net daily receipts at the sum of the customer's distribution charge, the balancing charge as set forth in subsection (f) of this section and the greater of either the City WACOG or 105 percent of the highest Transco Zone 6 (non-New York) price for the current month. If enough system supply is not available, the customer shall purchase all gas in excess of the customer's net daily receipts at the sum of the customer's distribution charge, the balancing charge as set forth in subsection (f) of this section, the peak shaving price and the storage capacity price.

(6) When the customer's daily deliveries exceed the actual usage at the delivery point, the City shall purchase these "overtendered" quantities at the lower of the City WACOG or 95 percent of the Transco Zone 6 (non-New York) price for the current month.

(7) If on any day the daily imbalance, as set forth in subsection (h)(3) of this section, exceeds ten percent, the customer shall pay a pro rata share of any upstream gas pipeline penalties incurred based upon the customer's daily imbalance in the same direction as the imbalance for which the penalty was incurred.

(i) *Utility tax.* All bills rendered under this rate schedule shall be subject to any applicable utility tax.

(j) *Force majeure.* If either the City or the customer is rendered unable, either wholly or in part, to carry out its obligations under this section because of a force majeure, the obligations of the party affected by such force majeure, other than the obligation to make payments under this section, shall be suspended during the continuance of any inability so caused, but for no longer period. Such force majeure shall, insofar as possible, be remedied with all reasonable dispatch. The term "force majeure," as used in this subsection, shall include acts of God; strikes; lockouts; wars; riots; insurrections; terrorism; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; interruptions by government or court orders; civil disturbances; explosions; breakage, freezing, or accident to lines of pipe or facilities; failure of interstate or intrastate pipeline transportation, but only if caused by an event constituting force majeure curtailment or discontinuation by such pipeline of transportation or other services; and any other cause, whether of the kind defined in this subsection or otherwise, not within the control of the party claiming suspension and which, by the exercise of reasonable foresight, such party is unable to avoid and, by the exercise of due diligence, such party is unable to overcome.

(Code 1993, § 29-241.1; Code 2004, § 106-203; Code 2015, § 28-195; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-196. Transportation service (schedule TS2).

(a) *Scope.* The rates, terms and conditions in this section shall apply to gas customers provided transportation service under schedule TS2.

(b) *Applicability.* Gas service under schedule TS2 is applicable as follows:

(1) Service is available throughout the service territory served by the City to all gas owned by a customer that is transported to and on the City's gas distribution system. This service is applicable only to customers that, at the delivery point set forth in the service agreement for transportation (TS2) between the City and the customer (referred to as the "service agreement"), take in excess of 60,000 Mcf per year and receive service from a six-inch or larger diameter gas main. The customer must deliver its gas to the receipt point approved by the City and set forth in the service agreement. Once the City has received the customer's gas at the receipt point, the City shall transport the gas, minus the lost and unaccounted for adjustment determined under subsection (g)(3) of this section to the delivery point. This service is available only to those customers who execute a service agreement for the service provided in this section.

(2) Daily balancing service is mandatory for all customers under this rate schedule.

(3) This service requires the installation and use of telemetering equipment at the delivery point. The City shall install, own, and maintain the telemetering and other equipment at the delivery point necessary to transmit the telemetering information to the City. The customer shall provide the dedicated telephone line necessary for the reliable operation of the telemetering equipment and the transmission of the telemetering information. The City shall meter the customer's takes of gas at the delivery point. The customer shall pay for the installation of electronic measurement equipment if measurement equipment is not so equipped. Payment shall be required prior to initiation of transportation service.

(c) *Character of service.* The City shall be obligated to deliver gas to the delivery point up to the lesser of the customer's transportation maximum daily quantity (TMDQ) and the daily volume of gas received by the City from the customer at the receipt point minus the lost and unaccounted for adjustment determined under subsection (g)(3) of this section.

(d) *Service agreement.* A service agreement shall be provided in accordance with the following:

(1) The customer shall execute a service agreement with the City which specifies the TMDQ, the receipt point, the delivery point, and the pressure at the delivery point. The service agreement shall be in the form as attached to this rate schedule on file in the City offices.

(2) The service agreement shall have an initial term of one year and then shall continue in effect for additional terms of one year until terminated by the customer or the City upon at least 30 days' written notice given prior to the end of the initial term or of any additional term.

(3) If a customer takes gas from the City under this rate schedule at more than one delivery point, these delivery points shall be included in one service agreement and shall be treated as a single delivery point for purposes of the customer charge, the distribution charge, the daily imbalances and imbalance charges, the TMDQ, and meeting the minimum take requirement to qualify for service under this rate schedule.

(e) *Transportation maximum daily quantity (TMDQ).* After consulting with a customer, the City shall assign the customer a TMDQ. This TMDQ shall remain in effect for the term of the service agreement unless modified by written agreement of the City and the customer.

(f) *Rates and charges for transportation service.* Rates and charges for transportation service shall be as follows:

Gas rates and charges for transportation service under Schedule TS2. These amounts do not include the cost of gas received at the receipt point for the customer:		
(1)	Customer charge per month	$757.58
(2)	Distribution charge, per Mcf	$0.67
(3)	Charge for daily imbalance in excess of ten percent, per Mcf	$0.58

(g) *Receipt and delivery.* Receipt and delivery shall be in accordance with the following:

(1) The customer shall be responsible for securing delivery of customer-owned gas to the receipt point.

(2) The receipt point shall be at a pipeline City gate station as assigned by the City and as specified in the service agreement.

(3) The City shall retain a percentage of volumes delivered to the receipt point for a lost and unaccounted for adjustment, and the City shall be obligated to deliver at the delivery point only the remainder of the volumes received. As of the effective date of this rate schedule, the percentage of volumes retained shall be 2 1/2 percent.

(h) *Load balancing.* Load balancing shall be in accordance with the following:

(1) The City shall provide the customer with daily balancing services within the parameters set forth in this section.

(2) The customer shall provide the City with good faith, nonbinding nominations when requested by the City.

(3) The customer's daily imbalance shall be equal to the difference between:

a. The volume of gas actually delivered on a day to the receipt point by or on behalf of the customer minus the lost and unaccounted for adjustment determined under subsection (g)(3) of this section ("net daily receipts"); and

b. The customer's actual usage as determined from daily meter readings at the delivery point ("daily deliveries").

A daily underdelivery shall be deemed to occur whenever net daily receipts are less than daily deliveries. A daily overdelivery shall be deemed to occur whenever net daily receipts are greater than daily deliveries.

(4) The City's charges for daily imbalances are set forth in subsection (f) of this section and shall apply to daily deliveries. The imbalance charges are in addition to and not in lieu of other transportation charges established by this rate schedule.

(5) Failure of the customer's transportation gas to arrive at the City gate will result in one of two possibilities. If enough system supply is available, the customer will purchase all gas in excess of the customer's receipts at the sum of the customer's delivery price, balancing charge as set forth in subsection (f) of this section and the greater of either the City WACOG or 105 percent of the highest Transco Zone 6 (non-New York) price for the current month. If enough system supply is not available, the customer will purchase all gas in excess of the customer's receipts at the sum of the customer's delivery price, balancing charge as set forth in subsection (f) of this section, the peak shaving price and the storage capacity price.

(6) When the customer's daily deliveries exceed the actual usage at the delivery point, the City will purchase these "overtendered" quantities at the lower of the City WACOG or 95 percent of the Transco Zone 6 (non-New York) price for the current month.

(7) If on any day the daily imbalance, as set forth in subsection (h)(3) of this section, exceeds ten percent, the customer pays a pro rata share of any interstate gas pipeline penalties incurred based upon the customer's daily imbalance in the same direction as the imbalance for which the penalty was incurred.

(i) *Utility tax.* Bills rendered under this schedule shall be subject to any applicable utility tax.

(j) *Force majeure.* If either the City or the customer is rendered unable, either wholly or in part, to carry out its obligations under this section because of a force majeure, the obligations of the party affected by such force majeure, other than the obligation to make payments under this section, shall be suspended during the continuance of any inability so caused, but for no longer period. Such force majeure shall, insofar as possible, be remedied with all reasonable dispatch. The term "force majeure," as used in this subsection, shall include: acts of God; strikes; lockouts; wars; riots; insurrections; terrorism; epidemics; landslides; lightning; earthquakes; fires; storms; floods;

washouts; interruptions by government or court orders; civil disturbances; explosions; breakage, freezing, or accident to lines of pipe or facilities; failure of interstate or intrastate pipeline transportation, but only if caused by an event constituting force majeure curtailment or discontinuation by such pipeline of transportation or other services; and any other cause, whether of the kind defined in this subsection or otherwise, not within the control of the party claiming suspension and which, by the exercise of reasonable foresight, such party is unable to avoid and, by the exercise of due diligence, such party is unable to overcome.

(Code 1993, § 29-241.2; Code 2004, § 106-204; Code 2015, § 28-196; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-197. Propane-air gas service (schedule PA).

(a) *Scope.* The rates and charges in this section shall apply for use of the City's processing and distribution system in the processing and delivery of propane-air mixture under schedule PA.

(b) *Applicability.* This service shall be available to any industrial or commercial customer located on the City's distribution system for the processing and delivery of propane-air mixture in the City's facilities:

(1) To the extent that the City has adequate excess capacity available for production and capability for introduction into its distribution system.

(2) When the City has executed a service agreement with a customer wherein the City agrees to produce propane-air mixture for the customer's account when requested from propane feedstock of the customer delivered into the City's storage tank.

(3) All production will be on a best efforts basis and subject to the needs of the City's gas customers.

(c) *Rate.* The monthly charge for production and delivery shall be the estimated cost of production, plus a transportation charge and other related charges. Such monthly charge will be subject to adjustment, plus or minus, at the end of the service agreement period.

(d) *Determination of deliveries.* The volume of gas considered delivered for a customer's account pursuant to this rate schedule shall be the actual volume in 100 cubic feet (ccf) produced less an adjustment thereof to cover unaccounted for gas.

(e) *Utility tax.* Bills rendered under this section shall be subject to any applicable utility tax.

(Code 1993, § 29-242; Code 2004, § 106-205; Code 2015, § 28-197)

Sec. 28-198. Municipal gas service (schedule MGS).

The following rate and charges shall apply for gas provided to buildings, structures or facilities used by the City and for which the City purchases gas:

SCHEDULE MGS

(1) *Application.* This section shall apply to use of service for all purposes in buildings, structures or facilities used by the City where service is available.

(2) *Monthly rate.* Monthly system charge shall be $4.95 per 1,000 cubic feet (Mcf).

(3) *Gas commodity charge.* Gas commodity charge per 1,000 cubic feet shall be as determined by the Director pursuant to this subsection. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas and is subject to monthly adjustments per thousand cubic feet for increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in Section 28-106.

(Code 1993, § 29-243; Code 2004, § 106-206; Code 2015, § 28-198; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2006-76-144, § 1, 5-30-2006; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, § 1, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-199. Flexibly priced interruptible gas service (schedule FS).

(a) *Scope.* The rates, terms and conditions in this section shall apply to customers provided flexibly priced interruptible gas sales service under schedule FS.

(b) *Applicability.* Gas service shall be supplied for any user having gas facilities with a consuming capacity of 3,000,000 Btu per hour or more at locations within the service area where facilities are available to supply the amount of gas requested by the customer, subject to the following conditions:

(1) The customer has installed and in regular use equipment, which shall be described in the contract, having a gas consuming capacity of not less than 3,000,000 Btu per hour and agrees to use the gas supplied under this section only in the operation of such equipment.

(2) Gas delivered under this section shall be separately metered and shall not be used interchangeably with gas supplied under any other schedule.

(3) The maximum daily quantity of gas to be delivered under this section, expressed in cubic feet, shall be specified in the contract and may be increased only by the execution of a new contract.

(4) The customer has standby equipment installed and maintained in operating condition and a fuel supply adequate for its operations when gas service is interrupted.

(5) This service requires the installation and use of telemetering equipment at the delivery point. The City shall install, own and maintain the telemetering and other equipment necessary to transmit the telemetering information to the City. The customer shall provide a telephone line necessary for the reliable operation of the telemetering equipment and the transmission of the telemetering information. Customers who do not provide the City a phone line will be charged a monthly surcharge for alternative communications equipment. This equipment will be owned and maintained by the City.

A day shall be a period of 24 consecutive hours, beginning as near as practical at 8:00 a.m. or as otherwise agreed upon by the customer and the Director.

(c) *Monthly commodity rate.* The Director shall establish by regulation procedures for setting a flexibly based monthly commodity charge for interruptible sales service for each category of alternative fuel, including, but not limited to, no. 2 oil, no. 4 oil, no. 6 oil and propane. In establishing such procedures and in setting the commodity charge, the Director shall consider the cost of the alternative fuel, the cost of gas necessary to supply customers under this schedule and the competitive advantages and disadvantages of gas. The Director may adjust the commodity charge monthly and shall keep available for public inspection the currently effective commodity charge in each alternative fuel category. The commodity charge shall be subject to the following price floor and ceiling. The commodity charge shall not be less than the cost of gas purchased by the Department for sale to customers receiving this service, plus the amount of $0.10 per Mcf. The commodity charge shall be no higher than the sum of:

(1) The average distribution charge for the quantities consumed under rate schedule CIS fixed rate, nontemporary purchase;

(2) The average cost per Mcf of the CIS demand charge calculated at a 100 percent load factor; plus

(3) The purchased gas charge.

In no case shall the commodity charge be less than the cost of gas plus the amount set forth in subsection (c) of this section.

(d) *Minimum monthly charge.* The minimum monthly charge for gas under schedule FS shall be as follows:

(1) For customers having facilities with a consuming capacity of 3,000,000 Btu per hour or more, and not

having installed no. 6 oil alternate fuel capability, each monthly bill for gas shall not be less than $476.19, except in months when the City delivers less than 50 Mcf as provided in this subsection. When less than 50 Mcf of gas is delivered in any month by reason of interruption or curtailment of service by the City, the monthly bill shall be computed on the basis of actual gas delivered at the monthly rate as set forth in this subsection. The term "month," as used in this subsection, shall be deemed to mean the period between any two consecutive readings of meters by the City, such readings to be made as near as practicable every 30 days.

(2) For customers having gas facilities with a consuming capacity of 3,000,000 Btu per hour and having installed no. 6 oil alternate fuel capability, each monthly bill shall be not less than $1,032.13, except in months when the City delivers less than 150 Mcf as provided in this subsection. When less than 150 Mcf of gas is delivered in any month by reason of interruption or curtailment of service by the City, the monthly bill shall be computed on the basis of actual gas delivered at the monthly commodity rate per Mcf as set forth in this subsection. The term "month," as used in this subsection, shall be deemed to mean the period between any two consecutive readings of meters by the City, such readings to be made as near as practicable every 30 days.

(e) *Utility tax.* Bills rendered under this schedule shall be subject to any applicable utility tax.

(f) *Term of contracts.* Contracts for gas service made under this schedule shall be for one year and may automatically be renewed from year to year unless cancelled by the customer or the Director upon 30 days' written notice to that effect given before the beginning of any contract year.

(g) *Special provisions.* Special provisions for discontinuance of use and unauthorized use of gas shall be as follows:

(1) *Discontinuance of use at request of Director.* A customer may use gas at any time, provided that the customer shall curtail or discontinue the use of service when requested by the Director, in the Director's sole discretion, on 30 minutes' notice.

(2) *Unauthorized use of gas.* All gas taken by a customer on any day during a period of interruption without the express permission of the Director and all gas taken by a customer on any day during a curtailment period in excess of the volume of gas authorized by the Director shall be paid for by the customer at the rate of $27.50 per Mcf, in addition to all other charges payable under this rate schedule. The Director may waive any such additional charges for unauthorized use of gas if the City's cost of gas is not affected by such unauthorized use by the customer.

(Code 1993, § 29-244; Code 2004, § 106-207; Code 2015, § 28-199; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2019-191, § 1, 7-22-2019)

Sec. 28-200. Unmetered gaslight service (schedule GL).

The following rates and charges shall apply for providing gas for ornamental gas lights having a manufacturer's rated gas consuming capacity of 1,400 cubic feet per month or less:

SCHEDULE GL

(1) *Application.* Unmetered gas service under this schedule may be furnished to all customers within the service area who have installed ornamental gas lights having a manufacturer's rated gas consuming capacity of 1,400 cubic feet per month or less when the Director determines that such service is available at places where such lights are installed.

(2) *Monthly rate.* Monthly system charge shall be $4.74 per 1,000 cubic feet.

(3) *Gas commodity charge.* Gas commodity charge per 1,000 cubic feet shall be as determined by the Director pursuant to this subsection. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas and is subject to monthly adjustments per thousand cubic feet for increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas

by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in Section 28-106.

(4) *Minimum charge.* The minimum charge shall be $14.45 per month for each gaslight.

(5) *Utility tax.* Bills rendered under this schedule shall be subject to any applicable utility tax.

(6) *Term of contracts.* Contracts for gas service made under this schedule shall be cancellable at any time.

(Code 1993, § 29-246; Code 2004, § 106-208; Code 2015, § 28-200; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2006-76-144, § 1, 5-30-2006; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2019-191, § 1, 7-22-2019)

Sec. 28-201. Gas air conditioning service (schedule AC).

(a) *Scope.* The rates, terms and conditions in this section shall apply to customers provided gas air conditioning service under schedule AC.

(b) *Applicability.* This rate schedule shall be applicable throughout the service territory for all customers for air conditioning equipment from April through October.

(c) *Monthly rate.* The monthly rate shall be the weighted average commodity cost of gas plus $0.10 per Mcf, April through October.

(d) *Special provisions.* Special provisions for billing and metering shall be as follows:

(1) This service is only available during April through October. Any gas taken after the last billing (cycle 21) for October and before the first billing (cycle 1) for April will be billed at the then-current rate per Mcf established under the applicable schedule GASC or schedule CIS (fixed rate).

(2) This service must be separately metered.

(e) *Utility tax.* Bills rendered under this schedule shall be subject to any applicable utility tax.

(Code 1993, § 29-248; Code 2004, § 106-209; Code 2015, § 28-201)

Sec. 28-202. Large volume gas sales service (schedule LVS).

(a) *Scope.* The rates, terms, and conditions in this section shall apply to customers provided firm, nonresidential large volume gas sales service under schedule LVS.

(b) *Applicability.* Service is available throughout the service territory served by the City to all firm, nonresidential gas sales customers that take in excess of 12,000 Mcf of gas over a consecutive 12-month period. This service requires the installation and use of telemetering equipment at the delivery point. The City shall install, own and maintain the telemetering and other equipment necessary to transmit the telemetering information to the City. The customer shall provide a telephone line necessary for the reliable operation of the telemetering equipment and the transmission of the telemetering information. Customers who do not provide the City a phone line will be charged a monthly surcharge for alternative communications equipment. This equipment will be owned and maintained by the City.

(c) *Monthly rates and charges.* The customer shall pay the rates and charges for gas under the schedule for large volume gas sales service (LVS), per month, as follows:

Monthly rates and charges for large volume gas sales service under Schedule LVS:			
(1)	Customer charge, per month		$689.23
(2)	Demand charge, per Mcf of billing demand		$14.04
(3)	Distribution charge:		
	a.	For the amount taken up to 1,500 Mcf, per Mcf	$1.91
	b.	For amounts taken from 1,501 Mcf to 11,500 Mcf, per Mcf	$0.99

	c.	For the amount taken over 11,500 Mcf, per Mcf	$0.70
(4)	Purchased gas cost, for large volume of gas sales service under Schedule LVS, determined per month. Purchase gas cost charge (weighted average commodity cost of gas (WACCOG)), includes all commodity charges, surcharges, tracking adjustments, and other non-fixed charges of pipelines and gas supplies incurred by the City. The charge also includes gas bought by the City at a fixed cost to serve a customer or group of customers approved by the Director. Any agreement to fix such costs shall be specified in the service agreement (addendum)		

(d) *Determination of demand.* The demand may, at the option of the Director, be determined either by measurement, by estimate or by agreement in accordance with the following:

(1) *By measurement.* The demand in any month shall be the highest use of gas in Mcf in any period of 24 consecutive hours as measured by the demand meter.

(2) *By estimate.* The demand in any month shall be taken as 1/20 of the Mcfs used in such month.

(3) *By agreement.* At a level to recover the upstream demand charges used to serve the customer. Such level shall be specified in the service agreement. Customer usage above this firm daily demand level shall be regarded as interruptible and will be subject to the terms in Section 28-199(g), which pertains to flexibly priced interruptible gas sales service.

(e) *Billing demand.* The billing demand in any month shall be the higher of:

(1) The demand as determined in such month under subsection (d) of this section; or

(2) The highest billing demand in any of the preceding months of November through April; provided, however, that for new customers or customers transferring from another rate schedule, the highest billing demand may, at the Director's option, be estimated based on the proposed use of the service under this rate schedule.

(f) *Utility tax.* All bills rendered under this rate schedule shall be subject to any applicable utility tax.

(g) *Service agreement.* If a customer takes gas from the City under this rate schedule at more than one delivery point and if all such delivery points are located at one plant or facility or are located at physically contiguous plants or facilities, these delivery points will be included in one service agreement and will be treated as a single delivery point for purposes of the customer charge, the distribution charge, and meeting the minimum take requirement to qualify for service under this rate schedule. In all other instances, each delivery point will require a separate service agreement and will be treated as a separate customer for all purposes.

(h) *Force majeure.* If either the City or the customer is rendered unable, either wholly or in part, to carry out its obligations under this section because of a force majeure, the obligations of the party affected by such force majeure, other than the obligation to make payments under this section, shall be suspended during the continuance of any inability so caused, but for no longer period. Such force majeure shall, insofar as possible, be remedied with all reasonable dispatch. The term "force majeure," as used in this subsection, shall include acts of God; strikes; lockouts; wars; riots; insurrections; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; interruptions by government or court orders; civil disturbances; explosions; breakage, freezing, or accident to lines of pipe or facilities; failure of interstate or intrastate pipeline transportation, but only if caused by an event constituting force majeure curtailment or discontinuation by such pipeline of transportation or other services; and any other cause, whether of the kind defined in this subsection or otherwise, not within the control of the party claiming suspension and which, by the exercise of reasonable foresight, such party is unable to avoid and, by the exercise of due diligence, such party is unable to overcome.

(Code 1993, § 29-249; Code 2004, § 106-210; Code 2015, § 28-202; Ord. No. 2009-57-80, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-203. Large volume, high load factor, gas sales services (schedule LVS-2).

(a) *Scope.* The rates, terms and conditions in this section shall apply to customers who are provided large volume, high load factor firm, and gas sales services under schedule LVS-2.

(b) *Availability.* Service is available throughout the service territory served by the City to all gas sales nonresidential customers that take in excess of 60,000 Mcf per year of gas.

(c) *Monthly rates and charges.* The customer shall pay the rates and charges for gas under the schedule for large volume, high factor, gas sales services (LVS-2), per month, as follows:

Monthly rates and charges for large volume, high load factor, gas sales services under Schedule LVS-2:		
(1)	Customer charge, per month	$689.23
(2)	Demand charge, if applicable, per Mcf of billing demand	$14.04
(3)	Distribution charge, all gas, per Mcf	$0.67
(4)	Purchased gas cost, for high load factor gas sales service under Schedule LVS-2, per month. Purchase gas cost charge (weighted average commodity cost of gas (WACCOG)), includes all commodity charges, surcharges, tracking adjustments and other nonfixed charges of pipelines and gas supplies incurred by the City. The charge also includes gas bought by the City at a fixed cost to serve a customer or group of customers approved by the Director. Any agreement to fix such costs shall be specified in the service agreement (addendum)	

(d) *Determination of demand.* The demand may, at the option of the Director, be determined by measurement, by estimate or by agreement with the Director in accordance with the following:

(1) *By measurement.* The demand in any month shall be the highest use of gas in Mcf in any period of 24 consecutive hours as measured by the demand meter.

(2) *By estimate.* The demand in any month shall be taken as 1/20 or 1/30 of the Mcfs used in such month.

(3) *By agreement.* At a level to recover the upstream demand charges used to serve the customer. Such level shall be specified in the service agreement. Customer usage above this firm daily demand level shall be regarded as interruptible and will be subject to the terms in Section 28-199(g), which pertains to flexibly priced interruptible gas sales service.

(e) *Billing demand.* The billing demand in any month shall be the higher of:

(1) The demand as determined in such month under subsection (d) of this section; or

(2) The highest billing demand in any of the preceding months of November through April; provided, however, that for new customers or customers transferring from another rate schedule, the highest billing demand may, at the option of the Director, be estimated based on the proposed use of service under this rate schedule.

(f) *Utility tax.* All bills rendered under this schedule shall be subject to any applicable utility tax.

(g) *Service agreement.* The customer shall execute a service agreement with the City in the form attached to this rate schedule on file in City offices and in accordance with the following:

(1) Service agreements for gas service made under this schedule shall be one year and may automatically be renewed from year to year unless canceled by the customer or the Director upon 30 days' written notice to that effect. Such notice must be given before the beginning of any contract year.

(2) If a customer takes gas from the City under this rate schedule at more than one delivery point and if all such delivery points are located at one plant or facility or are located at physically contiguous plants or facilities, these delivery points will be included in one service agreement and will be treated as a single delivery point for purposes of the customer charge, the distribution charge, and meeting the minimum

take requirement to qualify for service under this rate schedule. In all other instances, each delivery point will require a separate service agreement and will be treated as a separate customer for all purposes.

(3) This service requires the installation and use of telemetering equipment at the delivery point. The City shall install, own and maintain the telemetering and other equipment necessary to transmit the telemetering information to the City. The customer shall provide a telephone line necessary for the reliable operation of the telemetering equipment and the transmission of the telemetering information. Customers who do not provide the City a phone line will be charged a monthly surcharge for alternative communications equipment. This equipment will be owned and maintained by the City.

(h) *Force majeure.* If either the City or the customer is rendered unable, either wholly or in part, to carry out its obligations under this section because of a force majeure, the obligations of the party affected by such force majeure, other than the obligation to make payments under this section, shall be suspended during the continuance of any inability so caused, but for no longer period. Such force majeure shall, insofar as possible, be remedied with all reasonable dispatch. The term "force majeure," as used in this subsection, shall include acts of God; strikes; lockouts; wars; riots; insurrections; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; interruptions by government or court orders; civil disturbances; explosions; breakage, freezing, or accident to lines of pipe or facilities; failure of interstate or intrastate pipeline transportation, but only if caused by an event constituting force majeure curtailment or discontinuation of such pipeline of transportation or other services; and any other cause, whether of the kind defined in this subsection or otherwise, not within the control of the party claiming suspension and which, by the exercise of reasonable foresight, such party is unable to avoid and, by the exercise of due diligence, such party is unable to overcome.

(Code 1993, § 29-250; Code 2004, § 106-211; Code 2015, § 28-203; Ord. No. 2009-57-80, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2012-50-65, § 1, 5-14-2012; Ord. No. 2013-53-85, § 1, 5-28-2013; Ord. No. 2014-63-113, § 1, 5-27-2014; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2016-071, § 1, 5-13-2016; Ord. No. 2017-059, § 1, 5-15-2017; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Sec. 28-204. Natural gas vehicle gas service.

(a) *Application.* This section shall apply to use of service for all natural gas vehicle refueling facilities where service is available. Such service shall be separately metered.

(b) *Monthly rate.* The monthly system charge is $1.87 per 1,000 cubic feet (Mcf).

(c) *Gas commodity charge.* Gas commodity charge per 1,000 cubic feet is as determined by the Director pursuant to this subsection, plus $0.34 for the 100 percent load factor demand charge as shown in Section 28-202 for large volume gas service. This charge is for the costs associated with purchased gas or any gas used as a substitute for or supplement to purchased gas and is subject to monthly adjustments per thousand cubic feet for increases or decreases for any such cost. The Director of Public Utilities shall calculate the cost of natural gas each month and prepare a pro forma forecast of total gas commodity cost recovery balance for the end of the current fiscal year. The Director of Public Utilities may increase or decrease the purchased gas cost rate during the subsequent month to recover the cost of purchased gas by the end of the fiscal year. The Director of Public Utilities shall promptly notify the Chief Administrative Officer of changes to purchase gas cost rates. In addition, adjustments applicable under the weather normalization clause shall be as set forth in Section 28-106.

(Code 1993, § 29-253; Code 2004, § 106-212; Code 2015, § 28-204; Ord. No. 2004-95-124, § 1, 5-24-2004; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2005-102-110, § 1, 5-31-2005; Ord. No. 2006-76-144, § 1, 5-30-2006; Ord. No. 2008-97-125, § 1, 5-27-2008; Ord. No. 2009-57-80, 5-26-2009; Ord. No. 2010-82-95, § 1, 5-24-2010; Ord. No. 2011-57-84, § 1, 5-23-2011; Ord. No. 2015-71-102, § 1, 5-15-2015; Ord. No. 2018-091, § 1, 5-14-2018; Ord. No. 2019-068, § 1, 5-13-2019)

Secs. 28-205—28-231. Reserved.

ARTICLE V. WATER*

***Charter reference**—Department of public utilities, Ch. 13; authority of City to acquire, etc., waterworks, etc., and collect compensation therefor, § 2.03(n).

Cross reference—Water systems for subdivisions, § 25-257.

State law reference—Public utilities in connection with water and sewers, Code of Virginia, § 15.2-2109 et seq.

DIVISION 1. GENERALLY

Sec. 28-232. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Capacity charge means a charge assessed a new customer, which charge allows the new customer to pay costs associated with existing water utility assets. The capacity charge is calculated using the rate base of water utility assets that provide customers with capacity service divided by the capacity of the water treatment plant.

Detector check (DC) device means an apparatus the sole purpose of which is the detection of leakage or unauthorized use of water on a private fire protection system. It is not used for billing purposes.

Main means the pipe in a street extending parallel or nearly parallel to the line of property abutting thereon through which gas or water is conveyed or distributed.

Private fire protection system means water mains, pipes, hydrants, sprinklers and other facilities on private premises within or without the corporate City limits.

Public fire protection system means water mains, pipes, hydrants and other facilities in a street used in whole or in part for the protection of premises from fire.

Service charge means the readiness to serve the customer water regardless of consumption.

Service installation charge means a charge assessed a new customer, which charge recovers the City's cost associated with a plan review, connection to the water main, installation of a water service line, water meter, inspection, restoration of street paving and sidewalk and setting up a new customer account.

Volume charge means the charge assessed a customer based on the amount of water a customer consumes.

Water service means the meter, facilities and equipment required to furnish service from the meter to the premises and the billing for services supplied through the meter, facilities and equipment to the consumer.

Water service connection means facilities and equipment in the street area between the main and the property line used to supply water to any premises.

(Code 1993, § 29-16; Code 2004, § 106-241; Code 2015, § 28-232; Ord. No. 2008-99-127, § 3, 5-27-2008)

Cross reference—Definitions generally, § 1-2.

Sec. 28-233. Sale of water.

The Director is authorized to sell and deliver water to consumers within the corporate City limits and without the corporate City limits when authorized by the City Council, at rates prescribed by the City Council therefor, and in accordance with and subject to this article and other applicable laws and ordinances and rules and regulations lawfully made and promulgated by the Director pertaining thereto.

(Code 1993, § 29-45; Code 2004, § 106-242; Code 2015, § 28-233)

Sec. 28-234. Supply generally.

Water shall be supplied to consumers in accordance with the schedules of rates contained in this article and upon the terms and conditions set forth in this article, and consumers shall be charged and shall pay for all water supplied at the rates prescribed in the schedules.

(Code 1993, § 29-211; Code 2004, § 106-243; Code 2015, § 28-234)

Sec. 28-235. Deposit and contract required.

No water shall be supplied to any consumer until the consumer shall have made the cash deposit or provided other security determined by the Director under Section 28-54, if required, and has signed a written contract with the City, when required by the Director, in which the consumer shall promise to pay for all water used, consumed or wasted on premises therein to be specified or through portable meters at the rates and upon the terms and conditions therefor prescribed by the City Council from time to time. Every consumer shall observe, comply with and be bound by all ordinances, rules, regulations, terms and conditions prescribed for and relating to the use of

water while receiving the service.

(Code 1993, § 29-215; Code 2004, § 106-244; Code 2015, § 28-235)

Sec. 28-236. Separate bill for each meter; collective reading of several meters.

The quantity of water used, consumed or wasted as measured by every water service meter shall be separately billed, and the quantities of water used, consumed or wasted as indicated by separate service meter shall be separately billed. The quantities of water used, consumed or wasted as indicated by a separate service meter shall not be combined for the purpose of applying rates applicable to the aggregate amount. However, when more than one service meter is used to supply one or more premises that are continuously adjacent to each other and owned or leased by the same person, whether or not separated by a public street, and in which water is supplied by the owner to the occupants without making a direct charge therefor or for the owner's sole use, the readings of the several service meters may be combined for the purpose of applying rates applicable thereto.

(Code 1993, § 29-213; Code 2004, § 106-245; Code 2015, § 28-236)

Sec. 28-237. Establishment of standards by Director.

The Director shall establish and record standards of pressures, quantities and quality of water to be delivered to consumers in the corporate City limits, which from time to time may be amended, modified or changed whenever the Director deems it necessary or proper to do so, pursuant to Section 28-26.

(Code 1993, § 29-216; Code 2004, § 106-246; Code 2015, § 28-237)

Sec. 28-238. Records of distribution systems, mains, facilities and equipment, and service connections.

The Director shall keep on file suitable records showing the size and location of the water distribution systems, mains, facilities and equipment, and all service connections.

(Code 1993, § 29-42; Code 2004, § 106-247; Code 2015, § 28-238)

Sec. 28-239. Construction of distribution systems.

The Director shall issue a regulation pursuant to Section 28-26 establishing how mains for the transmission and distribution of water, extensions, replacements and enlargements of the systems will be constructed and how such mains, extensions, replacements and enlargements will be paid for.

(Code 1993, § 29-43; Code 2004, § 106-248; Code 2015, § 28-239; Ord. No. 2008-99-127, § 3, 5-27-2008)

Sec. 28-240. Determination of time for construction of mains; easements, size and character of mains.

The Director shall determine when water mains shall be constructed in streets or easements and the character and size of the mains. Mains shall be installed in easements only when, in the opinion of the Director, there is no other practical method of conveying water from facilities in public streets, alleys and other public ways or places.

(Code 1993, § 29-46; Code 2004, § 106-249; Code 2015, § 28-240)

Sec. 28-241. Discontinuance of service.

The Director may at any time cut off the supply of water through mains or connections thereto within or without the corporate City limits when such action is deemed necessary.

(Code 1993, § 29-47; Code 2004, § 106-250; Code 2015, § 28-241)

Sec. 28-242. Limitation of City liability for failure of supply.

The City shall not be liable to any consumer or other person for damages which may be occasioned to such consumer or person or the property thereof because of the failure of the supply of water in reaching the premises of such consumer in whole or in part.

(Code 1993, § 29-17; Code 2004, § 106-251; Code 2015, § 28-242)

Sec. 28-243. Water use requirements differing from established standards; changing quality of water.

Should a consumer require the use of water under conditions other than those established as standards by the Director, such extra services shall be provided by the consumer at the consumer's cost and expense. However, when

the consumer desires to change the quality of water after it is delivered and, in the opinion of the Director, such water as changed may be available for human consumption, the method of the treatment of the water delivered and the treatment plant used in the process of changing its quality shall be approved by the Director before such change is commenced or continued.

(Code 1993, § 29-217; Code 2004, § 106-252; Code 2015, § 28-243)

Sec. 28-244. Quantity, pressure and quality of water delivered outside City.

The City shall not be required to deliver water to consumers beyond the corporate City limits in greater quantities, pressures or quality than as such exist in the mains supplying such consumers at the time and place of delivery, unless otherwise specifically provided in contracts between the City and the consumer.

(Code 1993, § 29-212; Code 2004, § 106-253; Code 2015, § 28-244)

Sec. 28-245. Resale of water by Henrico County.

The County of Henrico is hereby permitted to sell water purchased from the City under contracts entered into by the County and the City to privately owned water companies for resale during emergencies found to exist by and with the approval of the Mayor.

(Code 1993, § 29-18; Code 2004, § 106-254; Code 2015, § 28-245; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-246. Sampling incentive program.

The Director may establish a sampling incentive program to provide monetary payments to residential water customers to encourage their voluntary participation in water sampling programs undertaken by the Department. Only residential water customers shall be eligible for such payments. The payments shall not exceed $10.00 per residential water customer per month, and the total amount paid pursuant to the sampling incentive program shall not exceed $15,000.00 per fiscal year.

(Code 1993, § 29-49; Code 2004, § 106-255; Code 2015, § 28-246)

Secs. 28-247—28-270. Reserved.

DIVISION 2. DISCOUNTED WATER AND SEWER FEES AND CHARGES FOR LOW-INCOME CUSTOMERS (METROCARE WATER ASSISTANCE PROGRAM)*

***State law reference—**Discounted water and sewer fees and charges for low-income customers authorized, Code of Virginia, § 15.2-2119.2.

Sec. 28-271. Established.

As authorized by Code of Virginia, § 15.2-2119.2, there is hereby established a MetroCare water assistance program for the purpose of providing discounted water and sewer fees and charges for low-income customers. For purposes of this division, the term "program" means the MetroCare water assistance program for which this section provides. The Director is hereby authorized to provide such discounted water and sewer fees and charges to water utility and wastewater utility customers of the City meeting the requirements of this division.

(Code 2004, § 106-260; Code 2015, § 28-271; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-272. Rules, regulations and guidelines.

Pursuant to Section 28-26, the Director shall adopt rules, regulations and guidelines to implement the program and may amend such rules, regulations and guidelines from time to time, as the Director may deem necessary.

(Code 2004, § 106-261; Code 2015, § 28-272; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-273. Program eligibility; application; manner of discounting fees.

(a) *Program eligibility.* To be eligible for discounted water utility or wastewater utility fees through the program, a person shall be a water utility or wastewater utility customer of the City, with the associated utility services bill in such customer's name, and shall have a total gross monthly household income adjusted for family size that is at or below 225 percent of the Federal Poverty Guidelines as published by the U.S. Department of Health and Human Services.

(b) *Application.* To participate in the program, a water utility or wastewater utility customer of the City shall apply to the Director on a form to be provided by the Director, with such documents in support of the application as the Director may require in accordance with applicable law, to determine such customer's eligibility for the program and to fulfill the requirements of this division. The Director shall either approve or deny each application received based on the information contained in the application and in any supporting documents. The Director shall establish within the rules, regulations and guidelines adopted in accordance with Section 28-272 the period for which approvals are effective and may establish within such rules, regulations and guidelines a minimum waiting period for resubmitting an application following any denial of an application. The Director may revoke an approved application in the event that the Director determines that the customer no longer meets the minimum eligibility requirements set forth in this section.

(c) *Manner of discounting fees.* The discounted fees provided pursuant to this division shall consist of credits applied against the approved customer's City water utility or wastewater utility service account. Such credits shall not be applied against utility account deposits or in connection with a bill dated more than one calendar year prior to the customer's application. The Director shall establish within the rules, regulations and guidelines adopted in accordance with Section 28-272 the method of calculating the amount of discount provided to an approved customer based on the level of the customer's need, and shall establish within such rules, regulations and guidelines the priority of assistance to each approved customer, based on the order in which the customer's application has been received, such that applications received first in time shall be given priority, and the customer's need, such that customers the farthest below 225 percent of the Federal Poverty Guidelines as published by the United States Department of Health and Human Services shall be given priority. The Director shall uniformly apply such calculations, which the Director may modify from time to time to maximize the funding available for the program. The amount of assistance provided pursuant to the program shall be limited to available funding.

(Code 2004, § 106-262; Code 2015, § 28-273; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-274. Third party assistance.

In accordance with applicable law, the Director may contract with one or more qualified third party organizations to assist in administering the program.

(Code 2004, § 106-263; Code 2015, § 28-274; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-275. Use of water utility and wastewater utility funds.

The program shall be implemented through use of funds derived from grants and other funding sources as permitted by law; provided, however, that funds of the City used for utility operating expenses, except for incidental expenses required to administer the program and to provide limited marketing support for the program and the City's water utility and wastewater utility, shall not be used for the program.

(Code 2004, § 106-264; Code 2015, § 28-275; Ord. No. 2014-152-146, § 1, 9-8-2014)

Secs. 28-276—28-298. Reserved.

DIVISION 3. METROCARE WATER CONSERVATION PROGRAM*

***State law reference—**Financial assistance to customers for plumbing repairs and the replacement of water-inefficient appliances, authorized, Code of Virginia, § 15.2-2119.3.

Sec. 28-299. Established.

As authorized by Code of Virginia, § 15.2-2119.3, there is hereby established a MetroCare water conservation program for the purpose of providing financial assistance to customers for plumbing repairs and the replacement of water-inefficient appliances. For purposes of this division, the word "program" means the MetroCare water conservation program for which this section provides. The Director is hereby authorized to provide such financial assistance to water utility and wastewater utility customers of the City meeting the requirements of this division.

(Code 2004, § 106-265; Code 2015, § 28-299; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-300. Rules and regulations and guidelines.

Pursuant to Section 28-26, the Director shall adopt rules, regulations and guidelines to implement the program

and may amend such rules, regulations and guidelines from time to time, as the Director may deem necessary.

(Code 2004, § 106-266; Code 2015, § 28-300; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-301. Program eligibility; application; manner of discounting fees; conservation goals.

(a) *Program eligibility.* To be eligible for the financial assistance for which this division provides, a person shall be a water utility or wastewater utility customer of the City, with the associated utility services bill in such customer's name, and shall own and occupy the premises for which such financial assistance is requested.

(b) *Application.* To participate in the program, a water utility or wastewater utility customer of the City shall apply to the Director on a form to be provided by the Director, with such documents in support of the application as the Director may require in accordance with applicable law to determine such customer's eligibility for the program and to fulfill the requirements of this division. The Director shall either approve or deny each application received based on the information contained in the application and in any supporting documents. The Director shall establish within the rules, regulations and guidelines adopted in accordance with Section 28-300 the period for which approvals are effective and may establish within such rules, regulations and guidelines a minimum waiting period for resubmitting an application following any denial of an application. The Director may revoke an approved application in the event that the Director determines that the customer no longer meets the minimum eligibility requirements.

(c) *Form of financial assistance.* Financial assistance provided pursuant to this division shall advance the program conservation goals set by the Director and may consist of water audits, direct repair and replacement of plumbing and qualified water-using appliances, and grants intended to provide for repair and replacement of plumbing and qualified water-using appliances. The Director shall establish within the rules, regulations and guidelines adopted in accordance with Section 28-300 the method of determining the amount of financial assistance provided to an approved customer based on the level of conservation need, with consideration of whether or not the customer's utility account is in good standing. The Director shall uniformly apply such methodology, which the Director may modify from time to time to maximize the funding available for the program. The Director shall establish the priority of financial assistance provided to each customer meeting the requirements of the program in accordance with this division, based on the order in which the customer's application has been received, such that applications received first in time shall be given priority, and the conservation need, such that customers with the greatest conservation need shall be given priority. For purposes of this section, the term "conservation need" means the degree to which repair or replacement of water-inefficient appliances and plumbing is expected to ensure more:

(1) Sustainable operation of the City's water utility and wastewater utility facilities;

(2) Sustainable use of the natural resources upon which the utilities rely; and

(3) Affordable utility costs for customers.

The amount of financial assistance provided pursuant to the program shall be limited to available funding.

(d) *Conservation goals.* The Director shall establish within the rules, regulations and guidelines adopted in accordance with Section 28-300 the program's conservation goals and measure the progress of such goals.

(Code 2004, § 106-267; Code 2015, § 28-301; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-302. Third party assistance.

In accordance with applicable law, the Director may contract with one or more qualified third party organizations to assist in administering the program.

(Code 2004, § 106-268; Code 2015, § 28-302; Ord. No. 2014-152-146, § 1, 9-8-2014)

Sec. 28-303. Use of water utility and wastewater utility funds.

The program shall be implemented through use of funds derived from grants and other funding sources as permitted by law; provided, however, that funds of the City used for utility operating expenses, except for incidental expenses required to administer the program and to provide limited marketing support for the program and the City's water utility and wastewater utility, shall not be used for the program.

(Code 2004, § 106-269; Code 2015, § 28-303; Ord. No. 2014-152-146, § 1, 9-8-2014)

Secs. 28-304—28-324. Reserved.

DIVISION 4. WATER RATES AND OTHER REGULATIONS RELATING THERETO*

***State law reference—**Fees and charges for water and sewer services authorized, Code of Virginia, § 15.2-2119.

Sec. 28-325. Water service account establishment charges.

When application for establishment of a water service account is made for an existing or for a new structure, the owner, occupant or consumer, in order to defray the cost incurred in the establishment of such service, shall be charged and shall pay to the Director a service establishment charge of $35.00 for water service. The charge shall be made and shall be paid each time such owner, occupant or consumer may have water service established at a location, unless the charge is waived by the Director under guidelines promulgated by the Director as authorized in Section 28-26. If the customer requests same-day service to connect or reconnect water service at a location, the customer shall pay to the Director a fee of $35.00, in addition to any other charges assessed pursuant to this section or otherwise by this chapter.

(Code 1993, § 29-69; Code 2004, § 106-281; Code 2015, § 28-325)

Sec. 28-326. Residential water service.

(a) *Application.* This section shall apply to the use of service for residential purposes in individual residences, owner-occupied duplexes or nonprofit facilities that provide transitional housing for residential use on a regular basis by homeless persons where service is available.

(b) *Minimum charge for water.* The monthly minimum charge is the service charge.

(c) *Service charges (readiness to serve).* Monthly water service charges shall be as set forth in this subsection. Each residential water service customer shall pay the service charge determined by meter size, unless the customer is eligible to receive a discount to the service charge for installing fire suppression equipment. The service charges set forth in this subsection shall be paid in addition to the charges for the quantity of water which passes through the meters. The Director shall, pursuant to Section 28-26, issue rules and regulations to establish the parameters for such a discount.

Meter Size (inches)	
5/8	$15.14
3/4	$21.51
1	$34.23
1 1/2	$66.02
2	$104.18
3	$205.93
4	$320.40
6	$638.38
8	$1,019.96
10	$1,465.13

(d) *Volume charge.* Monthly charges for the quantity of water which passes through the meters shall be as follows:

Quantity (ccf):	*Charge Per 100 Cubic Feet (ccf)*
Single-Family Residential Tier 1 0—4	$2.68

Single-Family Residential Tier 2 more than 4	$5.31
Multifamily Residential	$4.48

(e) *Term of contracts.* Contracts for water service for customers within the corporate City limits under this schedule shall be cancelable at any time, provided that such a consumer cannot resume service within one month at the same location without paying the prescribed service charges and charges for water supplied during the intervening period in accordance with this schedule. Contracts for water service for customers not within the corporate City limits shall be cancelable as discussed hereinafter in this chapter.

(f) *Special provisions (cost of water adjustment).*

(1) *Cost adjustment clause.* The charge specified in the monthly volume charge may be subject to an adjustment per 100 ccf for increases or decreases in the costs associated with the cost of electric energy, water treatment chemicals and purchased water.

(2) *Residential water service charges for meters having a capacity greater than five-eighths inch; special provision.* The monthly service charge for each residential water customer, with service established on or before the adoption of the ordinance from which this subsection is derived and having a water meter capacity greater than five-eighths inch, shall be equal to the monthly service charge for a five-eighths inch meter size as set forth in this section. The monthly service charge for each residential water customer, with service established after the adoption of the ordinance from which this subsection is derived and having a water meter capacity greater than five-eighths inch, shall be based upon the meter capacity as set forth in this section.

(Code 1993, § 29-218; Code 2004, § 106-282; Code 2015, § 28-326; Ord. No. 2004-94-123, § 1, 5-24-2004; Ord. No. 2005-101-109, § 1, 5-31-2005; Ord. No. 2006-66-134, § 1, 5-30-2006; Ord. No. 2008-97-127, § 5, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2009-114-123, § 1, 6-22-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-13-2019)

Sec. 28-327. Commercial water service.

(a) *Application.* This schedule shall apply to the use of water service for places of business, such as hotels, restaurants, office buildings, commercial businesses or other places of commerce and for multifamily residences at locations where service is available; provided, however, that this schedule shall not apply to contracts heretofore or hereafter entered into between the City and a county.

(b) *Minimum charge for water.* The monthly minimum charge is the service charge shown below, determined by meter size.

(c) *Service charges (readiness to serve).* Monthly water service charges shall be paid by consumers based upon the sizes of meters. The service charges as set forth below shall be paid in addition to the charges for the quantity of water which passes through the meters. When a consumer is supplied with water through more than one meter, the service charges shall be as set forth below for each meter.

Meter Size (inches)	
5/8	$15.14
3/4	$21.51
1	$34.23
1 1/2	$66.02
2	$104.18
3	$205.93

4	$320.40
6	$638.38
8	$1,019.96
10	$1,465.13
12	$3,361.19

(d) *Volume charge.* Monthly rates for the quantity of water shall be as follows:

Monthly water volume charges for commercial class, per 100 cubic feet (ccf) of the quantity of water that passes through the meters:	
Quantity (ccf):	
1—100	$4.48
101—2,000	$4.48
Over 2,000	$4.48

(e) *Metered fire protection (firelines).* When water is supplied for fire protection which is metered, through pipes used or which are available for use exclusively for that purpose, the service charges shall be based on the meter size, as follows:

Meter Size (inches)	
5/8	$7.84
3/4	$7.84
1	$7.84
1 1/2	$7.84
2	$12.52
3	$25.05
4	$39.13
6	$78.25
8	$125.21
10	$179.97
12	$338.05

(f) *Term of contracts.* Contracts for water service for customers within the corporate City limits shall be cancelable at any time, provided that a consumer cannot resume service within one month at the same location without paying the prescribed service charges and charges for water supplied during the intervening period in accordance with this schedule. Contracts for water service not within the corporate City limits shall be cancelable as discussed hereinafter in this chapter.

(g) *Special provisions (cost of water adjustment).* The charge specified in the monthly volume charge may be subject to an adjustment per 100 ccf for increases or decreases in the costs associated with the cost of electric energy, water treatment chemicals and purchased water.

(Code 1993, § 29-219; Code 2004, § 106-283; Code 2015, § 28-327; Ord. No. 2004-94-123, § 1, 5-24-2004; Ord. No. 2005-101-109, § 1, 5-31-2005; Ord. No. 2006-66-134, § 1, 5-30-2006; Ord. No. 2008-97-127, § 5, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-13-2019)

Sec. 28-328. Industrial water service.

(a) *Application.* This section shall apply to the use of water service for places that are primarily manufacturers or processors of materials; provided, however, that this schedule shall not apply to contracts heretofore or hereafter entered into between the City and a county.

(b) *Minimum charge for water*. The monthly minimum charge is the service charge shown below, determined by meter size.

(c) *Service charges (readiness to serve).* Monthly service charges shall be based on the size of the meter and shall be paid by consumers as provided below. The service charges shall be paid in addition to the charges for the quantity of water which passes through the meters. When a consumer is supplied with water through more than one meter, the service charges shall be as set forth below for each meter.

Meter Size (inches)	
5/8	$15.14
3/4	$21.51
1	$34.23
1 1/2	$66.02
2	$104.18
3	$205.93
4	$320.40
6	$638.38
8	$1,019.96
10	$1,465.13
12	$3,361.19

(d) *Volume charge.* Monthly rates for the quantity of water shall be as follows:

Monthly water volume charges for industrial class, per 100 cubic feet (ccf) of the quantity of water that passes through the meters:	
Quantity (ccf):	
1—100	$4.48
101—2,000	$4.48
Over 2,000	$4.48

(e) *Metered fire protection (firelines).* When water is supplied for fire protection which is metered, through pipes used or which are available for use exclusively for that purpose, the service charges shall be as follows:

Meter Size (inches)	
5/8	$7.84
3/4	$7.84
1	$7.84
1 1/2	$7.84
2	$12.52
3	$25.05
4	$39.13
6	$78.25
8	$125.21
10	$179.97
12	$338.05

(f) *Term of contracts.* Contracts for water service within the corporate City limits under this schedule shall be cancelable at any time, provided that a consumer cannot resume service within one month at the same location without paying the prescribed service charges and charges for water supplied during the intervening period in accordance with this schedule. Contracts for water service without the corporate City limits shall be cancelable as discussed hereinafter in this chapter.

(g) *Special provisions (cost of water adjustment).* The charge specified in the monthly volume charge may be subject to an adjustment per 100 ccf for increases or decreases in the costs associated with the cost of electric energy, water treatment chemicals and purchased water.

(Code 2004, § 106-284.1; Code 2015, § 28-328; Ord. No. 2008-97-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 1, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-13-2019)

Sec. 28-329. Municipal water service.

(a) *Application.* This section shall apply to the use of water service for governments that are not Federal or State agencies or departments or authorities; provided, however, that this schedule shall not apply to contracts heretofore or hereinafter entered into between the City and a county.

(b) *Minimum charge for water.* The monthly minimum charge is the service charge shown below, determined by meter size.

(c) *Service charges (readiness to serve).* Monthly service charges shall be based on the size of the meter and shall be paid by consumers as provided below. The service charges shall be paid in addition to the charges for the quantity of water which passes through the meters. When a consumer is supplied with water through more than one meter, the service charges shall be as set forth below for each meter.

Meter Size (inches)	
5/8	$15.14
3/4	$21.51
1	$34.23
1 1/2	$66.02

2	$104.18
3	$205.93
4	$320.40
6	$638.38
8	$1,019.96
10	$1,465.13
12	$3,361.19

(d) *Volume charge.* Monthly rates for the quantity of water shall be as follows:

Monthly water volume charges for Municipal class, per 100 cubic feet (ccf) of the quantity of water that passes through the meters:		
Quantity (ccf):		
	1—100	$4.48
	101—2,000	$4.48
	Over 2,000	$4.48

(e) *Metered fire protection (firelines).* When water is supplied for fire protection which is metered, through pipes used or which are available for use exclusively for that purpose, the service charges shall be as follows:

Meter Size (inches)	
5/8	$7.84
3/4	$7.84
1	$7.84
1 1/2	$7.84
2	$12.52
3	$25.05
4	$39.13
6	$78.25
8	$125.21
10	$179.97
12	$338.05

(f) *Term of contracts.* Contracts for water service within the corporate City limits under this schedule shall be cancelable at any time, provided that a consumer cannot resume service within one month at the same location without paying the prescribed service charges and charges for water supplied during the intervening period in accordance with this schedule. Contracts for water service without the corporate City limits under this schedule shall be cancelable as provided hereinafter in this chapter.

(g) *Special provisions (cost of water adjustment).* The charge specified in the monthly volume charge may

be subject to an adjustment per 100 ccf for increases or decreases in the costs associated with the cost of electric energy, water treatment chemicals and purchased water.

(Code 2004, § 106-285; Code 2015, § 28-329; Ord. No. 2008-97-127, §§ 1, 6, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-13-2019)

Sec. 28-330. State and Federal service.

(a) *Application.* This section shall apply to the use of water for State or Federal agencies and departments or authorities; provided, however, that this schedule shall not apply to contracts heretofore or hereafter entered into between the City and a county.

(b) *Minimum charge for water.* The monthly minimum charge is the service charge shown below, determined by meter size.

(c) *Service charges (readiness to serve).* Monthly service charges shall be based on the size of the meter and shall be paid by consumers as provided below. The service charges shall be paid in addition to the charges for the quantity of water which passes through the meters. When a consumer is supplied with water through more than one meter, the service charges shall be as set forth below for each meter.

Meter Size (inches)	
5/8	$15.14
3/4	$21.51
1	$34.23
1 1/2	$66.02
2	$104.18
3	$205.93
4	$320.40
6	$638.38
8	$1,019.96
10	$1,465.13
12	$3,361.19

(d) *Volume charge.* Monthly rates for the quantity of water shall be as follows:

Monthly water volume charges for State and Federal class, per 100 cubic feet (ccf) of the quantity of water that passes through the meters:		
Quantity (ccf):		
	1—100	$4.48
	101—2,000	$4.48
	Over 2,000	$4.48

(e) *Metered fire protection (firelines).* When water is supplied for fire protection which is metered, through pipes used or which are available for use exclusively for that purpose, the service charges shall be as follows:

Meter Size (inches)	
5/8	$7.84
3/4	$7.84
1	$7.84
1 1/2	$7.84
2	$12.52
3	$25.05
4	$39.13
6	$78.25
8	$125.21
10	$179.97
12	$338.05

(f) *Term of contracts.* Contracts for water service within the corporate City limits under this schedule shall be cancelable at any time, provided that a consumer cannot resume service within one month at the same location without paying the prescribed service charges and charges for water supplied during the intervening period in accordance with this schedule. Contracts for water service without the corporate City limits shall be cancelable as discussed hereinafter in this chapter.

(g) *Special provisions (cost of water adjustment).* The charge specified in the monthly volume charge may be subject to an adjustment per 100 ccf for increases or decreases in the costs associated with the cost of electric energy, water treatment chemicals and purchased water.

(Code 2004, § 106-286; Code 2015, § 28-330; Ord. No. 2008-97-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 1, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-31-2019)

Secs. 28-331—28-348. Reserved.

DIVISION 5. WATER SERVICE OUTSIDE CITY

Sec. 28-349. Statement of policy.

(a) The City will grant the right to use water from its distribution system originating on property divided by the corporate limits or situated wholly beyond the corporate limits but adjacent thereto, to which it is practical to extend such service to the following, which shall be referred to in this division as "grantee":

(1) A locality.

(2) An owner or lessee of property to which the services or either of them can be practically extended.

(b) Consideration should be given to the grantee only if there is an active approved cross connection program to protect the City water supply.

(Code 1993, § 29-126; Code 2004, § 106-306; Code 2015, § 28-349)

Sec. 28-350. Determination of practicality of extension of services.

The Chief Administrative Officer shall determine whether it is practical to extend the services referred to in this division.

(Code 1993, § 29-127; Code 2004, § 106-307; Code 2015, § 28-350; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-351. Granting of rights.

The rights to water service outside the City shall be granted under the following described contracts:

(1) Individual contract, which shall be a contract between the City and owner or lessee for services to premises located in the locality.

(2) Locality contract, which shall be a contract between the City and another locality or authority created for and operating in conjunction with a locality in supplying such services.

(Code 1993, § 29-128; Code 2004, § 106-308; Code 2015, § 28-351)

Sec. 28-352. Uniformity of contracts; general terms and provisions.

Every contract referred to in Section 28-351 shall be uniform as to each class of user of water service and shall contain the terms, conditions and provisions applicable thereto set out in this division.

(Code 1993, § 29-129; Code 2004, § 106-309; Code 2015, § 28-352)

Sec. 28-353. Authority to negotiate locality contracts.

The Chief Administrative Officer is authorized to enter into new or to renegotiate existing contracts regulated by this division for and on behalf of the City or may delegate the authority to do so to the head of the appropriate department.

(Code 1993, § 29-130; Code 2004, § 106-310; Code 2015, § 28-353; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-354. Terms, conditions and provisions of contracts.

Individual contracts entered into pursuant to this division shall contain the following terms, conditions and provisions:

(1) The grantee shall have an approved cross connection program.

(2) Water service shall be supplied to existing areas and new subdivisions when all prevailing subdivision laws have been complied with, at rates fixed by the City Council, which may be changed or modified at any time and from time to time by the City Council.

(3) a. If a demand or special charge other than the charges set forth in subsection (3)b of this section is prescribed by the Council for services supplied within the City, a charge is to be prescribed by the City Council for similar services supplied under the contracts, which may be changed or modified at any time or from time to time by the City Council.

b. Service charges shall be made for all private fire protection connections in the locality in accordance with the applicable rate schedule.

(4) The grantee of such rights shall be responsible for the payment of all charges made for such services. Upon the failure, refusal or neglect of the grantee to pay such charges, the services shall be cut off after giving the grantee the same written notice to that effect as is given consumers in the City before such services are cut off.

(5) The grantee shall agree to indemnify, keep and hold the City free and harmless from liability on account of injury or damages to the grantee or to any other person or property directly or indirectly resulting from the failure of the City to supply such services in whole or in part. If suit shall be brought against the City, either independently or jointly with the grantee on account thereof, the grantee will defend the City in any such suit at the cost of the grantee. If a final judgment is obtained against the City, either independently or jointly with the grantee, the grantee will pay such judgment with all costs and hold the City harmless therefrom.

(6) The location, character and size of the extensions and the plans and specifications for such connections and extensions and the materials used in the installation, replacement, maintenance and repair of the extensions and connections shall be as specified by the Chief Administrative Officer whose approval must be obtained, or the Chief Administrative Officer may delegate authority to the appropriate department head, and the connections and extensions shall be installed at such points as shall be approved

by the department head.

(7) The City shall have the right to make or permit additional extensions of and connections to all extensions after their construction.

(8) The quality and pressure of water delivered shall be that in the main from which the water is supplied at the point and time of delivery.

(9) Water shall not be delivered to any one connection at a rate in excess of 100 gallons per minute without the written approval of the Chief Administrative Officer.

(10) All individual contracts for water service shall provide that neither the grantee nor those claiming under the grantee shall resell water supplied by the City.

(Code 1993, §§ 29-141, 29-142, 29-151; Code 2004, § 106-311; Code 2015, § 28-354; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-355. Resident and nonresident users.

When a service connection for water service is made to a lot divided by the corporation line of the City, such lot shall be deemed to be within the corporate City limits if the portion of real estate taxes on land and improvements or improvements that may be placed thereon paid to the City is equal to or greater than the portion of real estate taxes on land and improvements or improvements that may be placed thereon paid to the locality, and all laws, ordinances, resolutions, rules and regulations governing water service in the City shall apply thereto. When a service connection for water service is made to any other lot divided by the corporation line of the City, such lot shall be deemed to be without the corporate City limits, and all laws, ordinances, resolutions, rules and regulations governing water service without the City shall apply thereto.

(Code 1993, § 29-152; Code 2004, § 106-312; Code 2015, § 28-355)

Sec. 28-356. Suspension of service and termination of contracts.

(a) Individual water service may be suspended by the Chief Administrative Officer at any time whenever:

(1) The use of water is excessive or interferes with or impairs the maintenance or operation of the City's production and distribution system;

(2) A possible contamination to the potable drinking water system could exist;

(3) The grantee fails, refuses or neglects to observe and comply with the terms and conditions of the contract or all laws, ordinances, resolutions, rules and regulations governing water service;

(4) Water is or may be required for the use of consumers in the City; or

(5) The locality undertakes to supply such services.

(b) Individual water service may be suspended by the Chief Administrative Officer at any time without notice whenever an emergency exists.

(c) Individual water service contracts may be terminated by either party thereto upon giving written notice to that effect to the other party 12 months prior to the date of termination. The notice on the part of the City shall be given by the Chief Administrative Officer whenever, in the Chief Administrative Officer's judgment or that of the Mayor or the Council, such contracts should be terminated.

(Code 1993, § 29-154; Code 2004, § 106-313; Code 2015, § 28-356; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-357. Assignment of individual contracts.

The grantee under an individual contract pursuant to this division may assign such contracts and rights, benefits, privileges, duties and obligations inured, received, imposed and assumed thereby to the tenants of the property receiving water service or to another owner thereof, except the right to reimbursement by the City shall not be assigned.

(Code 1993, § 29-155; Code 2004, § 106-314; Code 2015, § 28-357)

Secs. 28-358—28-387. Reserved.

DIVISION 6. WATER SERVICE CONNECTIONS, PIPES AND METERS

Sec. 28-388. Duties of owners and tenants.

Owners and tenants of premises with occupied buildings thereon shall comply with the following applicable requirements:

(1) The owner of a premises with a newly constructed or an existing building thereon shall apply to the Department of Public Utilities for a water service connection prior to occupancy of the building, provided that an individual water supply approved by the District Health Director may be used if the Department of Public Utilities cannot provide water service.

(2) Unless otherwise authorized in accordance with rules and regulations made pursuant to Section 28-26, the occupants of all buildings to which a City water connection has been made shall use City water to flush all toilets and to carry all wastewater and sewage into the City sewer system or individual sewage disposal system. Any rules and regulations proposed by the Director pursuant to this subsection shall take into account, inter alia, consultations with the City's Bureau of Permits and Inspections, the Virginia Department of Health, the Virginia Department of Environmental Quality, and other appropriate regulatory agencies of the Commonwealth.

(3) An application to the Department of Public Utilities to provide water service may be made by the owner or tenant of the premises, except that an application to provide water service on one meter to two or more dwelling units may be made only by the owner or agent. The owner or agent shall be required to furnish City water to tenants when one water meter serves two or more dwelling units.

(4) If water service to an occupied building is terminated by the Department of Public Utilities as a result of a delinquent water or sewer bill, a notice may be served by the District Health Department upon the person in whose name the bill is listed requiring that satisfactory arrangements be made with the Department of Public Utilities for payment of the delinquent bill and restoration of water service. Service of the notice shall be made by mailing the notice to the last known post office address of the person in whose name the bill is listed, by serving the notice in person on the person in whose name the bill is listed, or by serving the notice upon a responsible person above the age of 16 years who is an occupant of the building in which the person in whose name the bill is listed lives or works. If compliance with the notice does not occur within the prescribed time or acceptable arrangements for compliance are not made with the District Health Department, the person in whose name the bill is listed may be summoned to court.

(5) Notwithstanding the requirements of subsections (1) and (2) of this section, owners of premises in which another water supply system, approved by the Director of Public Health, was installed and used prior to January 1, 1970, shall not be required to connect to the City water system as long as the quality of the water is not detrimental to public health and safety.

(6) The owner of a premises in the City may drill a well and use the water for drinking purposes only, provided the well and the water are approved by the District Health Director. There shall be no interconnections between the well and the City water supply. Dug wells shall not be permitted in the City.

(Code 1993, § 29-58; Code 2004, § 106-336; Code 2015, § 28-388; Ord. No. 2015-203-193, § 1, 9-28-2015)

Sec. 28-389. Owner's responsibility for damage; disconnection for nonpayment.

Owners and occupants of premises connected directly or indirectly with the water system shall be responsible for all damages to service connections, meters and equipment occasioned thereto by the negligence of such owners and occupants and their agents, servants and employees. The Director shall investigate and determine the responsibility for damages to such connections, meters and equipment; shall make or cause to be made necessary renewals or repairs thereto; and shall collect the cost of them from owners or occupants responsible therefor. If such cost and expense are not paid within 30 days after presentation of a bill therefor, the Director shall cause the supply of water to be stopped, and the service stopped shall not thereafter be furnished to such premises for such owner or occupant until such cost and expense shall have been paid.

(Code 1993, § 29-60; Code 2004, § 106-337; Code 2015, § 28-389)

Sec. 28-390. Application for service connection.

Application for water service connections shall be made to the Director on forms provided by owners of premises to be served or by the occupants thereof through licensed plumbers, unless otherwise authorized in Chapter 5 pertaining to buildings and building regulations, and no water service shall be connected until the Director shall approve such application.

(Code 1993, § 29-67; Code 2004, § 106-338; Code 2015, § 28-390)

Sec. 28-391. Disconnection of meter without permission.

No water meter shall be disconnected from a service connection, moved or disturbed in any manner by any person nor shall any service connection be changed or altered in any manner without the written permission of the Director.

(Code 1993, § 29-68; Code 2004, § 106-339; Code 2015, § 28-391)

Sec. 28-392. Stopcocks and valves.

Stopcocks or valves shall be provided near the entrance of water service pipes into premises served by means of which all water may be shut off therefrom, which shall be easily and readily accessible at all times and shall be adequately protected from injury and freezing. All water fixtures, equipment and appliances shall be provided with separate valves or stopcocks, except that groups of fixtures in single rooms not separated by partitions may be controlled by single valves.

(Code 1993, § 29-29; Code 2004, § 106-340; Code 2015, § 28-392)

Sec. 28-393. Cutoff valve and valve box.

As a part of each water service connection, there shall be a cutoff valve at the main. For a service connection nominally three inches in diameter or larger, there shall be provided a suitable valve box for access to the cutoff valve without excavation.

(Code 1993, § 29-57; Code 2004, § 106-341; Code 2015, § 28-393)

Sec. 28-394. Costs of original connections and maintenance.

(a) In making installations of water service connections in the City, the Director shall furnish all necessary materials and shall have the service installed, the cost of which shall be paid as follows:

(1) The owner or occupant of the premises to be served shall be responsible to pay the connection charge set forth below based upon water meter size. The Director shall issue regulations pursuant to Section 28-26 to establish how the connection charges will be set for the owner or occupant of a premises to be served by multiple water meters with a shared water service connection. The Director may receive installment payment for the connection charge as outlined in the rules and regulations adopted pursuant to Section 28-26.

Connection Charges (Water)			
Meter Size (inches)	*Service Installation Charge*	*Capacity Charge*	*Total Connection Charge*
5/8	$5,000.00	$650.00	$5,650.00
3/4	$5,050.00	$950.00	$6,000.00
1	$5,200.00	$1,600.00	$6,800.00
1 1/2	$7,400.00	$3,150.00	$10,550.00
2	$7,450.00	$5,000.00	$12,450.00
3	$15,550.00	$9,400.00	$24,950.00
4	$16,950.00	$15,600.00	$32,550.00

6	$22,800.00	$31,200.00	$54,000.00
8	$27,700.00	$49,950.00	$77,650.00

(2) The entire cost of maintaining existing water service connections and meters, except as otherwise provided in Section 28-389, shall be paid by the City. However, whenever an existing water service connection is replaced at the request of the owner with one of greater capacity, the Director may require the owner or occupant to pay the full connection charge based upon the size of the new meter size. Whenever an existing water service connection is replaced at the request of the owner with one of lesser capacity, the owner or occupant shall receive no refund for any connection charges originally paid. The customer shall pay for the cost of meters as required in Section 28-400.

(b) The Director may allow, at the Director's discretion and on a case-by-case basis, an owner or occupant to construct the water service connection. The City will remain responsible, however, for providing water meters, inspection services and making the final connection to the water main. In such case, the owner or occupant will be responsible for paying any costs incurred by the City, including, but not limited to, the costs of inspection, the cost associated with labor and materials for providing a tap, or connection, to the existing main, water meters and the capacity charge listed in this section.

(c) In making installations of fireline service connections in the City, the Director shall furnish all necessary materials and shall have the service installed. The owner or occupant of the premises to be served shall be responsible to pay the connection charge set forth below based upon the meter size.

Connection Charges (fireline)	
Meter Size (inches)	
5/8	—
3/4	—
1	—
1 1/2	—
2	$7,400.00
3	$13,650.00
4	$14,500.00
6	$17,000.00
8	$20,000.00

(Code 1993, § 29-61; Code 2004, § 106-342; Code 2015, § 28-394; Ord. No. 2008-97-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2008-272-252, §§ 1, 2, 10-27-2008; Ord. No. 2011-59-85, § 1, 5-23-2011)

Sec. 28-395. Calculation of installation cost of connections; fees.

Upon receipt of an application for a water service connection made in the manner specified in Section 28-390 and for which the owner or occupant of premises to be served is required to pay pursuant to Section 28-394 or otherwise, the Director shall impose the fee for installing the connection pursuant to the table below. The charges set forth in the table below shall be set by the Council and derived from the Department's cost of service and rate study. The Director shall determine fees with each new cost of service and rate study performed. The Director shall have the authority to adjust connection fees between cost of service studies to reflect increases in the cost during the interim period.

Connection Charges (Water)

Meter Size (inches)	*Service Installation Charge*	*Capacity Charge*	*Total Connection Charge*
5/8	$5,000.00	$650.00	$5,650.00
3/4	$5,050.00	$950.00	$6,000.00
1	$5,200.00	$1,600.00	$6,800.00
1 1/2	$7,400.00	$3,150.00	$10,550.00
2	$7,450.00	$5,000.00	$12,450.00
3	$15,550.00	$9,400.00	$24,950.00
4	$16,950.00	$15,600.00	$32,550.00
6	$22,800.00	$31,200.00	$54,000.00
8	$27,700.00	$49,950.00	$77,650.00

(Code 1993, § 29-62; Code 2004, § 106-343; Code 2015, § 28-395; Ord. No. 2008-97-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2011-59-85, § 1, 5-23-2011)

Sec. 28-396. Connections outside City.

(a) When water is permitted to be used on property beyond the corporate City limits, the owner or occupant of the premises served shall furnish the City with the necessary authority from the locality to do or have any work required to be done by the City done prior to the installation and shall pay all of the cost and expense incurred by the City in extending service. Applications for such water service shall be made in accordance with Section 28-390.

(b) The owner or occupant shall obtain all permits for the installation of the service and meters, and the City shall furnish and install all of the service, including the meter from the main to the property line, at the expense of the applicant who shall excavate the trench, backfill, repave and maintain the surface as required by the locality and relieve the City of any liability therefor during and after its construction.

(c) Fees for connections outside the City shall be paid to the City as follows:

Connection Charges (Water)			
Meter Size (inches)	*Service Installation Charge*	*Capacity Charge*	*Total Connection Charge*
5/8	$5,000.00	$650.00	$5,650.00
3/4	$5,050.00	$950.00	$6,000.00
1	$5,200.00	$1,600.00	$6,800.00
1 1/2	$7,400.00	$3,150.00	$10,550.00
2	$7,450.00	$5,000.00	$12,450.00
3	$15,550.00	$9,400.00	$24,950.00
4	$16,950.00	$15,600.00	$32,550.00
6	$22,800.00	$31,200.00	$54,000.00
8	$27,700.00	$49,950.00	$77,650.00

(Code 1993, § 29-64; Code 2004, § 106-345; Code 2015, § 28-396; Ord. No. 2008-99-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2011-59-85, § 1, 5-23-2011)

Sec. 28-397. Size, character and arrangement of connections.

The Director shall determine the size, character and the arrangement of all water service connections installed within or without the City.

(Code 1993, § 29-65; Code 2004, § 106-346; Code 2015, § 28-397)

Sec. 28-398. Prevention of cross connection or backflow.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Backflow means the flow of water or other liquids, materials or substances into the pipes or into other facilities of the City's water distribution system from any source other than the City's normal sources of water, meeting standards for use and consumption of water, or from any alternate source of water meeting such standards which might be utilized by the City for the purpose of supplying water to the customers served by the water distribution system of the City.

Cross connection means any connection or structural arrangement, direct or indirect, to the City's water distribution system whereby a backflow can occur.

(b) To protect and ensure that the water distribution system of the City is pure and safe for public consumption as mandated by applicable State law and regulations, if any service connection for the supply of water to property from the water distribution system of the City may cause or result in a cross connection to the City's water distribution system, the Director is authorized to require the abatement or control of such cross connection or possible cross connection in accordance with regulations to be promulgated by the Director authorized in this section.

(c) The Director shall promulgate rules and regulations pursuant to Section 28-26 in order to prevent and control cross connection and backflow. Such rules and regulations shall be consistent with applicable State law and regulations and may provide for the termination of water service where necessary to protect the health of the citizens or where an owner or occupant of premises refuses to comply with the regulations.

(Code 1993, § 29-66; Code 2004, § 106-347; Code 2015, § 28-398)

Sec. 28-399. Depth and materials for water pipes.

All water service pipes installed underground shall be laid not less than two feet below the surface. All water service pipes located between the property line and the cutoff valve at the building shall be of materials that conform with Chapter 5.

(Code 1993, § 29-72; Code 2004, § 106-348; Code 2015, § 28-399)

Sec. 28-400. Cost, title and maintenance of meters.

Service meters used for an original or enlargement of a water service connection shall be paid for by the owner or occupant of the premises served. Title to all service meters installed shall remain or vest in the City. Credit for existing meters shall be given in accordance with Section 28-402. The City shall maintain, repair or replace existing service meters at its cost and expense, except as otherwise provided in Section 28-389.

(Code 1993, § 29-73; Code 2004, § 106-349; Code 2015, § 28-400)

Sec. 28-401. Meters required for each service.

For each separate water service connection, the City shall furnish, install at the expense of the owner and maintain at the expense of the City a service meter to measure the quantity of water used, consumed or wasted on the premises served. However, water connections used exclusively for private fire protection shall be installed in accordance with Section 28-457.

(Code 1993, § 29-74; Code 2004, § 106-350; Code 2015, § 28-401)

Sec. 28-402. Credit for existing meter or substitution.

Credit for existing service meters allowed the applicant shall be under the following conditions:

(1) When a service smaller than three-quarter-inch nominal diameter is replaced with one of three-quarter-inch nominal diameter in the same location, the City shall bear the entire cost.

(2) When a service is replaced in a new location with a larger pipe but using the same size meter or when a service of three-quarter-inch nominal diameter or larger is replaced in the same location with a larger pipe but using the same size meter, the customer shall pay the prevailing standard charge for a water

service connection, less the current cost of a new meter of the same size.

(3) When a meter is enlarged in the same location without change of pipe size, the customer shall pay the City the difference in the current cost of the two meters and all labor and construction costs necessary to permit the use of the larger size meter.

(4) When a meter is enlarged in a new location without change of pipe size or when both the meter and pipe size are enlarged either in the same or a new location, the customer shall pay the prevailing standard charge for a water service connection, less the current cost of a new meter of the original size.

(5) When a meter is replaced with one of less cost to the City, no refund shall be made.

(6) If a new service replaces two or more old services, credit shall be allowed for one of the old meters, but the credit for the old meter shall not exceed the cost of the new meter.

(Code 1993, § 29-75; Code 2004, § 106-351; Code 2015, § 28-402)

Sec. 28-403. Meter boxes required; cost of constructing and maintaining boxes.

All water meters installed outside of buildings, whether on private or public property, shall be installed in boxes or vaults of such size and materials as the Director shall prescribe, and the cost of constructing or installing such boxes or vaults shall be paid by the owner or occupant of the premises served. If such boxes or vaults are located on private property, the cost of their maintenance shall be at the expense of the owner or occupant of the premises served.

(Code 1993, § 29-76; Code 2004, § 106-352; Code 2015, § 28-403)

Sec. 28-404. Inside meter location.

On premises where no place for any outside water meter is available, the owner or occupant of such premises shall provide, without cost to the City, a place within the building for the water service meter or detecting device, which shall be contiguous or adjacent to the entrance of the service connection upon the premises and shall be satisfactory to and approved by the Director. The owner or occupant must allow the City access to the meter for the purpose of reading or maintaining it.

(Code 1993, § 29-77; Code 2004, § 106-353; Code 2015, § 28-404)

Sec. 28-405. Meter relocation.

Upon the written request of the owner or occupant to move a water service meter or detecting device from one place to another or should a change in the use of a premises or structural alteration therein render a place in which such meter or device is installed to be unsatisfactory to the Director, the water service meter or detecting device shall be moved to another place that is satisfactory to the Director. The entire cost of providing such other place and the moving and installation of the meter or device therein and the changes in pipes occasioned thereby shall be paid by the owner or occupant of the premises served.

(Code 1993, § 29-78; Code 2004, § 106-354; Code 2015, § 28-405)

Sec. 28-406. Termination of meter connection pipes.

All pipes for the connection of all water meters or detecting devices shall be terminated at the place approved therefor by the Director in a manner satisfactory to the Director.

(Code 1993, § 29-79; Code 2004, § 106-355; Code 2015, § 28-406)

Secs. 28-407—28-425. Reserved.

DIVISION 7. PORTABLE WATER METERS

Sec. 28-426. Conditions when permitted.

When, in the opinion of the Director, it is impracticable to use water from the distribution system through meters in fixed locations, the Director may permit the use of water from the system through portable meters upon the terms and conditions contained in this division, which shall be in addition to those imposed elsewhere in this article or in any other ordinance adopted by the Council or otherwise imposed by law.

(Code 1993, § 29-91; Code 2004, § 106-381; Code 2015, § 28-426)

Sec. 28-427. Furnished by Department; backflow device required.

(a) No portable water meters shall be used except those furnished by the Department.

(b) No portable meter shall be used without an approved, attached backflow device.

(Code 1993, § 29-92; Code 2004, § 106-382; Code 2015, § 28-427)

Sec. 28-428. Furnished only to user.

No portable water meter shall be furnished to any person unless such person is the actual user of the water to be supplied through such meter.

(Code 1993, § 29-93; Code 2004, § 106-383; Code 2015, § 28-428)

Sec. 28-429. Location restricted.

Portable water meters shall be used only within the City and in such territory adjacent thereto in which water used is supplied by the City and is not paid for by the adjoining locality under a contract with the City.

(Code 1993, § 29-94; Code 2004, § 106-384; Code 2015, § 28-429)

Sec. 28-430. Water charges.

Every consumer of water through a portable meter shall pay for all water used or wasted at the rates established under the existing commercial water service rate established in Section 28-327(d) adopted by the Council or which may be fixed by the Council.

(Code 1993, § 29-95; Code 2004, § 106-385; Code 2015, § 28-430)

Sec. 28-431. Payment of damages.

Every water consumer shall pay promptly to the City upon bills rendered therefor all costs incurred in repairing any damage to a portable water meter while in the consumer's possession and all costs incurred in repairing any damage to any fire hydrants, pipe or other property of the City caused by the use of such portable meter by the consumer or agents or employees of the consumer.

(Code 1993, § 29-96; Code 2004, § 106-386; Code 2015, § 28-431)

Sec. 28-432. Monthly return; conditions for extension of time.

All portable water meters in possession of consumers shall be returned to the Department at the end of each month at a place designated by the Director on the days and within the hours such place is open for business. Should continued use of a portable meter be desired, a meter may be furnished to such consumer on condition that such consumer is not delinquent in the payment of any charges for water used or wasted or in the payment of any damages to any portable meter theretofore furnished or to any fire hydrants, pipe or other property of the City and upon payment of the charge prescribed therefor.

(Code 1993, § 29-97; Code 2004, § 106-387; Code 2015, § 28-432)

Sec. 28-433. Charge for late return.

Should a consumer fail or refuse to return a portable water meter furnished to such consumer within two working days after the first day of each month, such consumer shall pay to the City a fee of $20.00 for each day or fraction thereof in excess of two working days such meter is not in the possession of the Department at the place designated by the Director for the return thereof.

(Code 1993, § 29-98; Code 2004, § 106-388; Code 2015, § 28-433)

Sec. 28-434. Painting for identification.

All portable water meters furnished by the City under this division shall be distinctly painted such color and design as shall be approved by the Director so that they may be readily identified as authorized for portable use only.

(Code 1993, § 29-99; Code 2004, § 106-389; Code 2015, § 28-434)

Sec. 28-435. Refund for inaccuracies; exchange of damaged meter.

The sections of this article relating to refunds for excess water passing through faulty registering meters shall not apply to water used or water wasted through portable meters. Consumers who use portable meters shall assume the risk of the working condition and accuracy or inaccuracy of portable meters furnished to them. Should a portable meter become damaged or fail to register while in the possession of a consumer, its use thereafter shall be unauthorized and unlawful, and it shall be the duty of such consumer to promptly return such a meter to the Department for exchange, without cost, except for repairs to the meter.

(Code 1993, § 29-100; Code 2004, § 106-390; Code 2015, § 28-435)

Secs. 28-436—28-453. Reserved.

DIVISION 8. PRIVATE FIRE PROTECTION SYSTEMS

Sec. 28-454. Permitted under certain conditions.

The supply of water to a private fire protection system shall be permitted only in such locations and through service connections of sufficiently limited size that, in the opinion of the Director, the maximum demand created by a private fire protection system shall not seriously reduce the normal pressures or quantity of water available for the public fire protection system in the vicinity. The Director may have installed new or enlarged mains in the public fire protection system that are necessary to properly supply the increased demand created by a private fire protection system, the cost of which shall be paid as specified in Sections 28-455 and 28-456.

(Code 1993, § 29-111; Code 2004, § 106-411; Code 2015, § 28-454)

Sec. 28-455. Payment of costs when equal to similar districts in the City.

If, in the opinion of the Director, the existing water system provides public fire protection in the vicinity of premises proposed to be served with water for private fire protection that is the equal of or better than the average of similar districts of the City, the entire cost of such new or enlarged mains in the public fire protection system shall be paid for by the owner of property proposed to be served or the occupant thereof.

(Code 1993, § 29-112; Code 2004, § 106-412; Code 2015, § 28-455)

Sec. 28-456. Payment of costs when less than in similar districts in City.

If, in the opinion of the Director, the existing water system provides public fire protection in the vicinity of premises proposed to be served with water for private fire protection that is less than the average of similar districts of the City, the Director may increase the public fire protection system, to the average of that in similar districts of the City, if funds for such purposes are available, at the City's expense, provided that the owner of property proposed to be served or the occupant thereof shall pay any increase in costs of such enlargement or new mains determined by the Director to be made necessary to properly provide for the added maximum demand that may be created by the private fire protection system.

(Code 1993, § 29-113; Code 2004, § 106-413; Code 2015, § 28-456)

Sec. 28-457. Service connections.

Service connections used exclusively for private fire protection within or without the City shall be equipped with devices approved by the Director located in the service lines, which will indicate the use of any water passing through such service lines. These devices shall be furnished and installed by the City at the cost and expense of the owner or occupants of premises served.

(Code 1993, § 29-114; Code 2004, § 106-414; Code 2015, § 28-457)

Sec. 28-458. Charges for water for fire protection.

No charge shall be made for water used for testing private fire protection systems or equipment or for the extinguishment of fire when services are installed with detecting devices in accordance with Section 28-457. The owners or occupants of such property shall pay for fire protection service at the rates prescribed in this section. Should water in such systems be wasted or used for any purpose other than for testing such systems or equipment or for the extinguishment of fire, the Director may immediately require the private fire protection system to be

metered at the entire cost and expense of the owners or occupants of premises served, and after the meters have been installed the owners or occupants of premises served shall pay for all water used on such premises at the appropriate class rate, including water used for testing such systems or equipment and for the extinguishment of fire. In addition, any property with direct fireline service that remains in service after the water meter for such property is removed shall be responsible to pay a minimum monthly service charge as follows:

Meter Size (inches)	
5/8	$7.84
3/4	$7.84
1	$7.84
1 1/2	$7.84
2	$12.52
3	$25.05
4	$39.13
6	$78.25
8	$125.21
10	$179.97
12	$338.05

(Code 1993, § 29-115; Code 2004, § 106-415; Code 2015, § 28-458; Ord. No. 2008-97-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 3, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-31-2019)

Secs. 28-459—28-484. Reserved.

DIVISION 9. POLLUTION OF WATER SUPPLY

Sec. 28-485. Enforcement; authority of Board of Health.

The enforcement of this division, so far as designed and intended to prevent the pollution of the City water supply, shall be entrusted to the District Health Director, under rules and regulations to be adopted by the Board of Health, and the Board is hereby authorized and directed to adopt such further rules and regulations as may be necessary to carry out the powers conferred on it in this division, not, however, in violation of the Charter, this Code or other City ordinances.

(Code 1993, § 29-266; Code 2004, § 106-441; Code 2015, § 28-485)

Cross reference--Functions, powers and duties of District Health Department and District Health Director, § 15-1.

Sec. 28-486. Discharge of offensive matters in certain streams and canals.

It shall be unlawful for any person to throw or discharge any filth, offensive or deleterious matter or liquid into the water of the James River or any branch or stream flowing into it or in any canal from which the water supply of the City is or may be obtained.

(Code 1993, § 29-256; Code 2004, § 106-442; Code 2015, § 28-486)

Sec. 28-487. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Feeder means a designation of the canal which takes water from the James River at Bosher's Dam and conveys

the water to the water purification plant, together with any and all settling basins, storage basins, flumes, reservoirs, basins or tanks used in connection with the water supply of the City.

(Code 1993, § 29-257; Code 2004, § 106-443; Code 2015, § 28-487)

Cross reference—Definitions generally, § 1-2.

Sec. 28-488. Privies.

It shall be the duty of all owners of houses within the watershed of the feeder which supplies water to the water treatment plant or on the watershed of any stream tributary thereto (that is to say, within the watershed drained by the feeder, Tuckahoe Creek, Upper Westham Creek, Lower Westham Creek, and other streams tributary to such creeks and other creeks flowing into the feeder), when the houses are not supplied with such sewage disposal facilities that will not pollute such water supply, to provide such houses with privies. No such facility shall be located within less than 200 feet of the feeder; within less than 200 feet of any of the streams tributary thereto; nor within less than 50 feet of any ravine, gully or ditch which carries or is likely to carry water into the feeder or into the streams after heavy rains. It shall be the duty of the tenant or occupant of any such house to have all deposits in the privies removed at least once a month by the contractor for the removal of night soil, if there is such contractor; if there is no such contractor, such deposits shall be removed by the tenant or occupant at least once a month and buried not less than two feet under the surface of the ground and at a point not less than 100 feet from the feeder or from any of the streams tributary thereto. The tenant or occupant of such house shall keep the privy clean at all times.

(Code 1993, § 29-258; Code 2004, § 106-444; Code 2015, § 28-488)

Sec. 28-489. Trespass in feeder and tributaries.

It shall be unlawful for any person to trespass in the feeder at any point between Bosher's Dam and the water treatment plant or in any stream that flows into the feeder between such points.

(Code 1993, § 29-260; Code 2004, § 106-445; Code 2015, § 28-489)

Sec. 28-490. Septic tank systems.

It shall be the duty of the owner of any house on the watershed of the feeder or of any of the streams tributary thereto, when the house is provided with a domestic water service, to install and maintain some approved system for the disposal of all sewage from such house, preferably the system known as the septic tank system, followed by subsoil distribution of the septic tank effluent.

(Code 1993, § 29-263; Code 2004, § 106-446; Code 2015, § 28-490)

Sec. 28-491. Discharge of chemical, biological and radiological material on ground surface.

It shall be unlawful to discharge or cause or permit to be discharged, onto the surface of the ground on the watershed, any chemical, biological or radiological material within 200 feet from the feeder or from any stream tributary thereto.

(Code 1993, § 29-264; Code 2004, § 106-447; Code 2015, § 28-491)

Secs. 28-492—28-520. Reserved.

DIVISION 10. FLUORIDE TREATMENT OF WATER

Sec. 28-521. Records.

The Department of Public Utilities shall keep daily records as required by the State Department of Health showing the number of gallons of water treated and the fluoride ion concentration in the water after treatment.

(Code 1993, § 29-276; Code 2004, § 106-471; Code 2015, § 28-521)

Sec. 28-522. State standards and rules.

The Department of Public Utilities will follow State Department of Health standards and rules related to the addition of fluoride in the City's drinking water supply.

(Code 1993, § 29-277; Code 2004, § 106-472; Code 2015, § 28-522)

Sec. 28-523. General supervision.

The District Health Department shall have general supervision of the treatment of the water supply with fluoride, and the Department of Public Utilities shall furnish to the District Health Department copies of the records required to be kept by Section 28-521 when requested by that department.

(Code 1993, § 29-278; Code 2004, § 106-473; Code 2015, § 28-523)

Sec. 28-524. Surveys and research.

The Department of Public Utilities shall conduct such surveys and research as necessary to determine effects of treating water with fluoride and shall solicit the assistance of educational and scientific institutions in conducting such surveys and research where needed.

(Code 1993, § 29-279; Code 2004, § 106-474; Code 2015, § 28-523)

Secs. 28-525—28-541. Reserved.

DIVISION 11. WATER CONSERVATION

Sec. 28-542. Purpose; enforcement; exemptions.

(a) *Purpose.* The purpose of this division is to establish water conservation reduction measures to be imposed when the State water protection permit issued to the City by the State Department of Environmental Quality for water withdrawn from the James River requires water conservation measures to be in effect for public water supply use or when the Governor of the Commonwealth or other State or Federal authority, pursuant to applicable law, declares an emergency, impose mandatory water conservation measures, and authorize the City to enforce such measures.

(b) *State or Federal measures.* Should the Governor or other State or Federal authority, pursuant to applicable law, declare an emergency, impose mandatory water conservation measures, and authorize the City to enforce such measures, the City shall enforce those measures pursuant to this division to the extent that such measures impose greater restrictions on the use of water than those then in effect pursuant to this division. Except where such State or Federal water conservation measures impose greater restrictions, any water conservation measures imposed by this division shall remain in effect as provided in this division.

(c) *Exemptions.*

(1) This division shall not apply to any governmental activity, institution, business, residence, or industry when it has been determined by the Chief Administrative Officer that an exemption is necessary for the following:

   a. The public health, safety and welfare;

   b. The prevention of severe economic hardship or the substantial loss of employment; or

   c. The health of any person.

(2) Recycled water and water supplied from public or private groundwater sources shall also be exempt from this division.

(Code 1993, § 29-280; Code 2004, § 106-496; Code 2015, § 28-542; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-543. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bucket means a bucket or other container holding five gallons or less when used singly by one person.

Established landscape means landscape plants existing in an area after such period of time as to accomplish an establishment and maintenance of growth.

Fountain means a water display where water is sprayed strictly for ornamental purposes.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways, roughs and

related areas used for the playing of golf.

Handheld hose means a hose attended by one person and fitted with a manual or automatic shutoff nozzle.

Landscape plant means any member of the kingdom plantae, including any tree, shrub, vine, herb, flower, succulent, ground cover or grass species that grows or has been planted outdoors.

New landscape means any landscape made up of plants or seeds planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth.

Paved areas means streets, sidewalks, driveways, patios, parking lots, and other surface areas covered with brick, paving, tile or other material through which water cannot pass.

Recycled water means water originally potable but circulated for reuse after delivery from the public water system.

Swimming pool means any structure, basin, chamber or tank, including hot tubs, containing an artificial body of water for swimming, diving or recreational bathing and having a depth of two feet or more at any point.

Vegetable garden means any noncommercial vegetable garden planted primarily for household use. The term "noncommercial," as used in this definition, includes the incidental direct sale of produce from such a vegetable garden to the public.

(Code 1993, § 29-281; Code 2004, § 106-497; Code 2015, § 28-543)

Cross reference—Definitions generally, § 1-2.

Sec. 28-544. Declaration of conservation measures.

The Chief Administrative Officer shall declare the imposition of either voluntary or mandatory water conservation measures whenever the City is experiencing a water supply emergency or the need to avert a water supply emergency. Such emergency or need to avert an emergency shall be deemed to exist whenever the flows in the James River drop to levels that require the limitation of withdrawals by the State water protection permit issued to the City or when the Governor or other State or Federal authority, pursuant to applicable law, declares an emergency, imposes mandatory water conservation measures, and authorizes the City to enforce such measures. Notices of the implementation and termination of the water conservation measures shall be publicly announced and published in a daily newspaper for at least one day. The implementation or termination of the measures shall become effective immediately upon publication of the respective notice.

(Code 1993, § 29-282; Code 2004, § 106-498; Code 2015, § 28-544; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-545. Voluntary conservation measures.

When voluntary water conservation measures are in effect, the Chief Administrative Officer shall request the general public, businesses and public agencies in the City to implement and comply with the following water use reduction measures:

(1) *Fountains.* Reduce operation to hours between 8:00 p.m. and 10:00 a.m., except that operation may be unrestricted on any two days during a week at the option of the operator or owner.

(2) *Paved areas.* Reduce washing to any hours during any two days in a week. Washing paved areas for immediate health and safety is exempted.

(3) *Swimming pools.* Reduce filling and replenishing to levels required to maintain health and safety.

(4) *Vegetable gardens.* Reduce watering to hours between 8:00 p.m. and 10:00 a.m., except that watering may be unrestricted on any two days during a week at the option of the owner. Watering by bucket is unrestricted.

(5) *Vehicle washing.* Reduce noncommercial washing of mobile equipment to any hours during any two days in a week using a handheld hose having a positive (i.e., automatic) shutoff nozzle. Commercial mobile equipment washing businesses are exempt.

(6) *Restaurants.* No restrictions.

(7) *Public utilities.* Reduce scheduled sewer and hydrant flushing by 50 percent. Flushing to meet immediate

health and safety requirements is exempt.

(8) *Established landscape.* Reduce watering as follows:

a. Odd property addresses (by last digit of address number): water unrestricted only on Tuesdays, Thursdays and Saturdays.

b. Even property addresses (by last digit of address number) and locations with no address number: water unrestricted only on Wednesdays, Fridays and Sundays.

c. Watering prohibited on Mondays.

d. Watering by bucket is unrestricted.

(9) *New landscape.* Water unrestricted during the first ten days after planting and shall conform to subsection (8) of this section after the first ten days.

(10) *Golf courses.* Reduce watering to hours between 8:00 p.m. and 10:00 a.m., except that watering of greens is unrestricted.

(Code 1993, § 29-283; Code 2004, § 106-499; Code 2015, § 28-545; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-546. Mandatory conservation measures.

When mandatory water conservation measures are in effect, the general public, businesses and public agencies shall comply with the following water use restrictions:

(1) *Fountains.* Operation prohibited.

(2) *Paved areas.* Washing prohibited except for immediate health and safety requirements.

(3) *Swimming pools.* Reduce filling and replenishing to levels to maintain health and safety.

(4) *Vegetable gardens.* Restrict watering as follows:

a. Odd property addresses (by last digit of address number): water only on Tuesdays, Thursdays and Saturdays.

b. Even property addresses (by last digit of address number) and locations with no address number: water only on Wednesdays, Fridays and Sundays.

c. Watering prohibited on Mondays.

d. Watering by bucket is unrestricted.

(5) *Vehicle washing.* Reduce noncommercial washing of mobile equipment to any hours one day a week using a handheld hose having a positive (i.e., automatic) shutoff nozzle. Commercial mobile equipment washing businesses are exempt.

(6) *Restaurants.* Serve water to customers only upon request.

(7) *Public utilities.* Conduct sewer and hydrant flushing only to the extent required to meet immediate health and safety needs.

(8) *Established landscape.* Restrict watering as follows:

a. Odd property addresses (by last digit of address number): water only on Tuesdays, Thursdays and Saturdays.

b. Even property addresses (by last digit of address number) and locations with no address number: water only on Wednesdays, Fridays and Sundays.

c. Watering prohibited on Mondays.

d. Watering by bucket is unrestricted.

(9) *New landscape.* Water unrestricted during the first ten days after planting and shall conform to subsection (8) of this section after the first ten days.

(10) *Golf courses.* Restrict watering as follows:

a. Watering restricted to six days per week between the hours of 8:00 p.m. and 4:00 a.m.

b. Watering by handheld hose (one-inch diameter maximum) is permitted any time between the hours of 4:00 a.m. and 8:00 p.m.

c. Watering of greens is unrestricted.

(Code 1993, § 29-284; Code 2004, § 106-500; Code 2015, § 28-546)

Sec. 28-547. Violation; evidentiary presumptions; penalty; appeals.

(a) *Violation.* It shall be a violation of this division for any person to intentionally, knowingly, recklessly or negligently use, cause the use of or permit the use of water in violation of any of the mandatory sections of this division.

(b) *Evidentiary presumptions.* For purposes of this division, when water has been used in a manner contrary to a mandatory section of this division, it shall be presumed that the person in whose name a water meter connection is registered with the Department has knowingly used, caused the use of or permitted the use of water in such a contrary manner. Proof that a particular premises had a water meter connection registered in the name of the defendant cited in a criminal complaint filed pursuant to this division shall constitute in evidence a prima facie presumption that the defendant is the person who used, caused the use of or permitted the use of water in a manner contrary to any mandatory section of this division.

(c) *Penalty for violation.* Any person convicted of violating any of the sections of this division shall be guilty of a Class 3 misdemeanor. In lieu of conviction and punishment, the person on the first offense will receive a written warning. On the second offense, the person will be assessed as a civil penalty a water bill surcharge fee of $50.00 per violation for a residential account and $100.00 per violation for an institutional/commercial/industrial account. On the third and any subsequent offense, the person will be assessed as a civil penalty a water bill surcharge fee of $100.00 per violation for a residential account and $200.00 per violation for an institutional/commercial/industrial account. In addition, the Department may suspend the service of any person violating any of the mandatory water use restrictions.

(d) *Appeals.* The person shall have the right to appeal to the Chief Administrative Officer upon receiving written notice of any violation or intent to discontinue service. The Chief Administrative Officer shall notify the person in writing of the time and place for the hearing of the appeal within a reasonable time prior to such hearing, which hearing shall occur no more than 15 business days after the Chief Administrative Officer receives written notice of such appeal. The Chief Administrative Officer shall notify the person in writing of the Chief Administrative Officer's final decision no more than 15 business days after the hearing.

(Code 1993, § 29-285; Code 2004, § 106-501; Code 2015, § 28-547; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-548. Enforcement.

The Director of Public Utilities is authorized to designate qualified personnel of the Department of Public Utilities to enforce this division in the manner and to the extent allowed by the law, including the filing of notices of violations of this division and the filing of complaints with the Department of Police for such violations.

(Code 1993, § 29-286; Code 2004, § 106-502; Code 2015, § 28-548)

Sec. 28-549. Additional charge for water use during conservation periods.

During any period when mandatory or voluntary water conservation measures are in place in the City, any customer who uses more than 140 percent of the amount of water used on a monthly average basis during the previous winter period (defined to include December to February), shall be required to pay a higher rate for water per ccf, as stated below, for each additional ccf used above that historic level. The Director will not charge the water rate if the person using more than 140 percent of the monthly average water usage, as defined above, used any portion of the water for fighting a fire. The Director will only charge the higher ccf rate for those additional volumes above the calculated levels.

Additional charge for water use during conservation period (per ccf), by customer class and volume:	

Residential	1—100	During Voluntary Conservation Period	$6.51
	1—100	During Mandatory Conservation Period	$8.68
	101—2,000	During Voluntary Conservation Period	$6.51
	101—2,000	During Mandatory Conservation Period	$8.68
	Over 2,000	During Voluntary Conservation Period	$6.51
	Over 2,000	During Mandatory Conservation Period	$8.68
Commercial	1—100	During Voluntary Conservation Period	$6.51
	1—100	During Mandatory Conservation Period	$8.68
	101—2,000	During Voluntary Conservation Period	$6.51
	101—2,000	During Mandatory Conservation Period	$8.68
	Over 2,000	During Voluntary Conservation Period	$6.51
	Over 2,000	During Mandatory Conservation Period	$8.68
Industrial	1—100	During Voluntary Conservation Period	$6.51
	1—100	During Mandatory Conservation Period	$8.68
	101—2,000	During Voluntary Conservation Period	$6.51
	101—2,000	During Mandatory Conservation Period	$8.68
	Over 2,000	During Voluntary Conservation Period	$6.51
	Over 2000	During Mandatory Conservation Period	$8.68
State and Federal	1—100	During Voluntary Conservation Period	$6.51
	1—100	During Mandatory Conservation Period	$8.68
	101—2,000	During Voluntary Conservation Period	$6.51
	101—2,000	During Mandatory Conservation Period	$8.68
	Over 2,000	During Voluntary Conservation Period	$6.51
	Over 2,000	During Mandatory Conservation Period	$8.68
Municipal	1—100	During Voluntary Conservation Period	$6.51
	1—100	During Mandatory Conservation Period	$8.68
	101—2,000	During Voluntary Conservation Period	$6.51
	101—2,000	During Mandatory Conservation Period	$8.68
	Over 2,000	During Voluntary Conservation Period	$6.51
	Over 2,000	During Mandatory Conservation Period	$8.68

(Code 2004, § 106-503; Code 2015, § 28-549; Ord. No. 2008-97-127, § 6, 5-27-2008; Ord. No. 2008-99-127, § 2, 5-27-2008; Ord. No. 2009-58-81, § 1, 5-26-2009; Ord. No. 2010-84-97, § 1, 5-24-2010; Ord. No. 2011-59-85, § 1, 5-23-2011; Ord. No. 2012-48-63, 5-14-2012; Ord. No. 2013-51-84, § 1, 5-28-2013; Ord. No. 2014-43-101, § 1, 5-27-2014; Ord. No. 2015-64-95, § 1, 5-15-2015; Ord. No. 2016-070, § 1, 5-13-2016; Ord. No. 2017-062, § 1, 5-15-2017; Ord. No. 2018-094, § 1, 5-14-2018; Ord. No. 2019-071, § 1, 5-31-2019)

Secs. 28-550—28-576. Reserved.

ARTICLE VI. WASTEWATER, SEWERS AND COLLECTION SYSTEMS*

***Cross reference—**Sewer systems for subdivisions, § 25-258.

DIVISION 1. GENERALLY

Sec. 28-577. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and *the Act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the Virginia Department of Environmental Quality.

Authorized representative of the industrial user means as follows:

(1) If the industrial user is a corporation, an authorized representative means:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00, in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership, association, or sole proprietorship, an authorized representative means a general partner or the proprietor.

(3) If the individual user is representing Federal, State or local governments or an agent thereof, an authorized representative means the Director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing; specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company; and is submitted to the City.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized during a specific incubation period (under standard laboratory procedure, five days, at 20 degrees Celsius) for the biochemical degradation of organic material and the oxygen used to oxidize inorganic material such as sulfides and ferrous iron, the result expressed in terms of mass and concentration (milligrams per liter (mg/L)), measured by the test procedure specified in 40 CFR 136.

Building sewer means the pipe which receives sanitary sewage from inside the walls of a building and which carries the wastes through the walls to the service connection.

Capacity charge means a charge assessed a new customer, which charge allows the new customer to pay costs associated with existing major wastewater utility assets. The capacity charge is calculated using the rate base of major wastewater utility assets that provide customers with capacity service divided by the dry weather flow capacity of the wastewater treatment plant.

Categorical pretreatment standards means any regulation containing pollutant discharge limits promulgated by the U.S. Environmental Protection Agency in accordance with Section 307(b) and (c) of the Clean Water Act that applies to a specific category of users and that appears in 40 CFR 425—471.

CFR means Code of Federal Regulations.

Clean Water Act (CWA) means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Combined sewer means a sewer designed to carry both sanitary sewage and stormwater.

Combined sewer connection means a pipe wholly within the public right-of-way or easement conveying either sanitary sewage from a building or facility or stormwater to a combined sewer, not including the physical connection between the pipe within the right-of-way or easement and the pipe on private property.

Combined sewer extension means the construction of a combined sewer main, to be used for the conveyance of both stormwater and sanitary sewage.

Composite sample means a sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Control authority means the City.

Cooling water means the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Discharge means any release, spill, leak, pumping, pouring, emitting, emptying, disposing, or dumping into the municipal wastewater system.

Dwelling unit means a room or rooms in which kitchen facilities are provided, located in a building or structure, used or intended to be used by a family or household as a home, residence or sleeping place of the family or household.

EPA means the United States Environmental Protection Agency.

General prohibitions means any pollutant which causes pass through or interference. These prohibitions apply to any user introducing pollutants into the publicly owned treatment works.

Grab sample means a sample which is taken from a wastestream on a one-time basis without regard to flow in the wastestream and without consideration of time.

Half-life means the period in which the rate of radioactive emission by a pure sample falls by a factor of two among known radioactive isotopes. Half-lives range from about ten to seven seconds to 1,016 years.

Hazardous substance means any substance classified as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 USC 9601 et seq., and any regulations promulgated thereunder.

Hazardous waste means any waste identified in 40 CFR 261 or 9VAC20-60-261.

Household waste means the discharge from any fixture, appliance or appurtenance in connection with a plumbing system.

Interference means a discharge which, alone or in conjunction with a discharge from other sources, both:

(1) Inhibits or disrupts the publicly owned treatment works, its treatment processes or operations, or its sludge processes, uses or disposal; and therefor

(2) Is a cause of a violation of any requirement of the City's VPDES permit, including any increase in the magnitude or duration of a violation, or of the prevention of sludge disposal in compliance with the applicable State or Federal laws or regulations.

Local limits means technically based limits established by the City to implement general and specific prohibited standards and to protect against pass through and interference.

Medical wastes means isolation wastes, infectious agents, human blood and blood products, pathological wastes, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, embalming fluids or other waste materials associated with the medical profession.

New source means a facility from which there is or could be a discharge of pollutants, construction of which began after the publication of the proposed pretreatment standards pursuant to Section 307(c) of the Clean Water Act which will apply to the facility if the standards are promulgated.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Occupant means a person who is in control or actual possession of or actually occupies a dwelling unit.

Operator means an owner, occupant or agent having charge, care, management or control of real property or of a facility located on real property discharging to the wastewater system.

Owner means a person who holds legal title to real property or a dwelling unit or an agent having charge, care, management, or control of real property or a dwelling unit.

Pass through means a discharge which exits the City's publicly owned treatment works into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the publicly owned treatment works VPDES permit, including any increase in the magnitude or duration of a violation.

Peak flow means the highest instantaneous flow reading for a given time period.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local government entities.

pH means the acidity or alkalinity of a substance, expressed in standard units with 7.0 being neutral, measured by the test procedure specified in 40 CFR 136.

Plumbing fixtures means facilities as defined in the plumbing fixture schedule adopted by the City Council.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the publicly owned treatment works. This reduction or alteration can be obtained by:

(1) Physical, chemical, or biological processes;

(2) Process changes;

(3) Waste minimization;

(4) Pollution prevention; or

(5) Other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment standard means any requirement pursuant to this article; regulations of the department; or pretreatment permits, categorical standards and local units.

Prohibited discharge means the discharge into the publicly owned treatment works of a prohibited substance, as defined in this section.

Prohibited substance means any of the following:

(1) Material which creates or may create a fire or explosion hazard at any point in the City's wastewater system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius, using test methods specified in 40 CFR 261.21.

(2) Material which has a pH below 5.0, unless specifically approved by the Director based on a finding that the publicly owned treatment works will accommodate such material, or which would or will cause corrosive structural damage to any part of the wastewater system.

(3) Solid or viscous matter, including, but not limited to, oil and grease, in an amount which may cause obstruction or interference in the wastewater system.

(4) Material, including oxygen demanding matter, that, by its constituents, character, volume, strength or any combination thereof, may cause or contribute to an interference with the normal operation of the City's wastewater system.

(5) Heat in an amount that would inhibit biological activity or cause wastewater treatment plant influent temperature to exceed 40 degrees Celsius (104 degrees Fahrenheit).

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in an amount that would cause or could cause interference or pass through.

(7) Matter that would or could result in the presence of toxic gases, vapors, or fumes at any point in the wastewater system in a quantity or concentration that could cause worker health and safety problems.

(8) Radioactive waste or isotopes of such half-life or concentration that does not comply with regulations or permits issued by the appropriate authority having control over their use or which may cause damage or hazard to the wastewater system or personnel operation of the wastewater system or pass through the system into the environment.

(9) Trucked or hauled matter, except at discharge points designated by the Director.

Publicly owned treatment works means a treatment works, as defined by Section 212 of the CWA (33 USC 1292), which is owned by the City's wastewater system.

Radioactive materials means materials that possess by some elements, such as uranium, or isotopes, such as carbon 14, the characteristic of spontaneously emitting energetic particles (electrons or alpha particles) by the disintegration of their atomic nuclei.

Sanitary sewage means all waste, refuse, liquids and other material entering a sanitary sewer or combined sewer, exclusive of stormwater.

Sanitary sewer means a pipe designed to receive and convey sanitary sewage, exclusively.

Sanitary sewer connection means a pipe wholly within a public right-of-way or easement conveying waste, refuse liquids and other materials from a building to a sanitary or combined sewer main, but not including the physical connection between the pipe within the right-of-way or easement and the pipe on private property.

Sanitary sewer extension means the construction of a sanitary sewer main, to be used for the conveyance of sanitary sewage exclusively.

Self-monitoring means any sampling, analytical testing, readings, etc., conducted by a user subject to a wastewater discharge permit.

Service charge means the monthly charge billed to a customer, regardless of consumption, which charge shall recover customer service, sewer main maintenance and combined sewer improvement costs.

Service installation charge means a charge assessed a new customer, which charge recovers the City's costs associated with a plan review, inspection and setting up a new customer account.

Sewage means refuse liquids or waste matter carried off by sewers; wastewater.

Sewage disposal system means all City facilities for collecting, pumping, treating and disposing of sewage.

Sewer means facilities designed to carry sewage.

Sewer main means the pipe in a street extending parallel or nearly parallel to the line of property abutting thereon through which wastewater is conveyed for treatment.

Sewer service means the collection, transportation, pumping, treatment and disposal of sewage, as evidenced by any sanitary sewage or wastewater connection from any premises to the sewer system of the City; wastewater system.

Sewer system means the systems owned, maintained or operated by the City for the purpose of collecting and conveying sanitary sewage, or stormwater or any combination thereof; wastewater system.

Sewerage means the removal and disposal of sewage by sewers.

Significant industrial user (SIU) means:

(1) A user that is subject to categorical pretreatment standards; or

(2) A user that:

a. Discharges an average of 25,000 gallons per day (gpd) or more of process wastewater, excluding sanitary, noncontact cooling water, and boiler blowdown wastewater;

b. Contributes a process wastestream making up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or

c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the publicly owned treatment works' operation or for violating any pretreatment standard or requirement.

However, upon finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the publicly owned treatment works' operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from the user and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance (SNC) means a pretreatment permit or other noncompliance as defined 40 CFR 403.8(f)(2)(vii) or 9VAC25-31-800.F.2.g.

Slug load and *slug loading* mean any discharge at a flow rate or concentration which could cause a violation of this article or the Department's pretreatment rules and regulations.

Soluble biochemical oxygen demand (SBOD) means the result measured by the BOD test procedure specified in 40 CFR 136 after the sample is filtered (vacuum of 25 mmHg) through a 0.45 μm pore size filter.

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

Storm sewer means a pipe designed to receive and convey stormwater, surface water and subsurface water, exclusively.

Storm sewer connection means a pipe wholly within a public right-of-way or easement conveying stormwater from real property to a storm or combined sewer, not including the physical connection between the pipe within the right-of-way or easement and the pipe on private property.

Stormwater means naturally occurring precipitation, surface water, subsurface water or any combination thereof.

Strong wastewater and *strong sewage* mean wastes containing more than 275 milligrams per liter of suspended solids or more than 250 milligrams per liter of BOD or other characteristics in concentrations not normally found in sanitary sewage.

Suspended solids (SS) means the total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquid and which is removable by laboratory filtering, measured by the test procedure specified in 40 CFR 136.

User means the owner or operator of any of the following:

(1) Any source, within or without the City's corporate limits, that discharges material directly or indirectly to the sewer system.

(2) Any source that discharges hauled material to the sewer system through receiving facilities designated by the Director.

(3) Any source that discharges material to the wastewater treatment plant through a dedicated pipe.

UST means underground storage tank.

Violation means any violation of any section of this article, any rule or regulation promulgated pursuant to this article, any order issued pursuant to this article, or any provision of a pretreatment permit issued pursuant to this article.

Volume charge means the charge assessed a customer to recover all costs associated with the wastewater utility that are not recovered in the service charge.

VPDES means the Virginia Pollutant Discharge Elimination System Permit Program, as administered by the Commonwealth of Virginia.

Wastewater means all water-carried and liquid wastes carried from residences, commercial establishments, institutions, industrial establishments, and other premises, together with such stormwaters as may be present.

Wastewater system means the systems owned, maintained or operated by the City for the purpose of collecting and conveying sanitary sewage or stormwater.

(Code 1993, §§ 29-291, 29-325; Code 2004, § 106-531; Code 2015, § 28-577; Ord. No. 2008-98-126, § 2, 5-27-2008; Ord. No. 2014-215-196, § 1, 10-27-2014)

Cross reference—Definitions generally, § 1-2.

Sec. 28-578. Limitation of City's liability for failure of supply of wastewater services.

The City shall not be liable to any consumer or other person for damages which may be occasioned to such consumer or person or the property thereof because of the failure of the supply of wastewater services to the premises of such consumer, in whole or in part.

(Code 1993, § 29-17; Code 2004, § 106-532; Code 2015, § 28-578)

Sec. 28-579. Meters for wastewater.

Whenever any user considers that significant quantities of water used are not returned to the wastewater system, such user may request that the billings be based upon metered wastewater quantities. If approved by the Director, such user may then provide and maintain at the user's own expense a meter acceptable to the Director for the measurement of the quantities of wastewater. The meter shall be accessible for inspection by the Director at all times and shall be maintained to produce an accurate record of the true quantities of wastewater discharged to the wastewater system.

(Code 1993, § 29-342; Code 2004, § 106-533; Code 2015, § 28-579)

Sec. 28-580. Billing for wastewater use in certain cases.

Whenever any wastewater customer uses significant quantities of metered water that are not returned to the wastewater system, the customer may request that the wastewater billings be based on submeters that, in the Director's discretion, accurately measure the amount of water that is not returned to the wastewater system. The Director shall promulgate rules and regulations pursuant to Section 28-26 to implement the requirements of this section.

(Code 1993, § 29-343; Code 2004, § 106-534; Code 2015, § 28-580)

Sec. 28-581. Violations.

A violation of any section of this article, any rule or regulation promulgated pursuant to Division 4 of this article, any order pursuant to Division 3 or 4 of this article, or any provision of a pretreatment permit issued pursuant to Division 5 of this article shall constitute a misdemeanor and shall be punishable as a Class 1 misdemeanor. Each violation of each requirement shall constitute a separate offense.

(Code 2004, § 106-535; Code 2015, § 28-581)

Sec. 28-582. Discontinuance of service.

The Director may at any time terminate wastewater service within or without the corporate City limits when such action is deemed necessary.

(Code 1993, § 29-47; Code 2004, § 106-536; Code 2015, § 28-582)

Sec. 28-583. Interjurisdictional agreements.

The Director is authorized to enter on behalf of the City interjurisdictional agreements with other political jurisdictions which may discharge wastes to the sewer system of the City or whose sewer systems may receive wastes from the sewer system of the City. Such interjurisdictional agreements shall apply or allow the application of Divisions 3 through 6 of this article or the pretreatment requirements of other jurisdictions on an equitable interjurisdictional basis and in order to comply with applicable provisions of Federal and State law.

(Code 2004, § 106-537; Code 2015, § 28-583)

Sec. 28-584. Statement of policy.

The City will grant the right to discharge wastewater into its wastewater system originating on property divided

by the corporate limits or situated wholly beyond the corporate limits but adjacent thereto, to which it is practical to extend such service to the following, which shall be referred to as "grantee":

(1) A locality.

(2) An authority created for and operating in conjunction with a locality in supplying such services.

(3) An owner or lessee of property to which the service can be practically extended.

(Code 1993, § 29-126; Code 2004, § 106-538; Code 2015, § 28-584)

Sec. 28-585. Determination of practicality of extension of services.

The Chief Administrative Officer shall determine whether it is practical to extend the services referred to in this article.

(Code 1993, § 29-127; Code 2004, § 106-539; Code 2015, § 28-585; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-586. Granting of rights.

The rights to wastewater service outside the City shall be granted under the following described contracts:

(1) Individual contract, which shall be a contract between the City and owner or lessee for services to premises located in the locality.

(2) Locality contract, which shall be a contract between the City and a locality.

(Code 1993, § 29-128; Code 2004, § 106-540; Code 2015, § 28-586)

Sec. 28-587. Uniformity of individual contracts; general terms and provisions.

Every contract referred to in Section 28-586 shall be uniform as to each class of user of wastewater service and shall contain the terms, conditions and provisions applicable thereto set out in this article.

(Code 1993, § 29-129; Code 2004, § 106-541; Code 2015, § 28-587)

Sec. 28-588. Authority to negotiate locality contracts.

The Chief Administrative Officer is authorized to enter into new or to renegotiate existing contracts regulated by this article for and on behalf of the City or may delegate the authority to do so to the head of the appropriate department.

(Code 1993, § 29-130; Code 2004, § 106-542; Code 2015, § 28-588; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-589. Terms, conditions and provisions of contracts.

Individual contracts entered into pursuant to this article shall contain the following terms, conditions and provisions:

(1) The wastewater service shall be supplied to existing areas and new subdivisions when all prevailing subdivision laws have been complied with, at rates fixed by the City Council, which may be changed or modified at any time and from time to time by the City Council.

(2) If a demand or special charge other than the charges set forth in subsection (3) of this section is prescribed by the Council for services supplied within the City, a charge is to be prescribed by the City Council for similar services supplied under the contracts, which may be changed or modified at any time or from time to time by the City Council.

(3) The grantee of such rights shall be responsible for the payment of all charges made for such services. Upon the failure, refusal or neglect of the grantee to pay such charges, the services shall be cut off after giving the grantee the same written notice to that effect as is given consumers in the City before such services are cut off.

(4) The grantee shall agree to indemnify, keep and hold the City free and harmless from liability on account of injury or damages to the grantee or to any other person or property directly or indirectly resulting from the failure of the City to supply such services in whole or in part. If suit shall be brought against the City, either independently or jointly with the grantee on account thereof, the grantee will defend the City in

any such suit at the cost of the grantee. If a final judgment is obtained against the City, either independently or jointly with the grantee, the grantee will pay such judgment with all costs and hold the City harmless therefrom.

(5) The location, character and size of the extensions and the plans and specifications for such connections and extensions and the materials used in the installation, replacement, maintenance and repair of the extensions and connections shall be as specified by the Chief Administrative Officer whose approval must be obtained, or the Chief Administrative Officer may delegate authority to the appropriate department head, and the connections and extensions shall be installed at such points as shall be approved by the department head.

(6) The City shall have the right to make or permit additional extensions of and connections to all extensions after their construction.

(Code 1993, § 29-141; Code 2004, § 106-543; Code 2015, § 28-589; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-590. Discharge of certain types of waste prohibited.

All individual contracts for wastewater service under this article shall provide that:

(1) The grantee will not discharge, cause to be discharged or permit to be discharged into the City's wastewater system any of the following waters, wastes or effluent:

a. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;

b. Any water or waste which contains more than 100 parts per million by weight of fat, oil or grease;

c. Any flammable or explosive liquid, solid or gas;

d. Any raw garbage, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance that causes obstruction of the flow in sewers or interferes with the operation of the City's wastewater system;

e. Any water or waste having a concentration of acidity and alkalinity of less than pH 5.5 or more than pH 9.0 or having any other corrosive property that causes or is likely to cause damage or injury or that constitutes or is likely to constitute a hazard to structures, equipment or personnel employed in the operation of the City's wastewater system;

f. Any water or waste containing a toxic poisonous substance that injures or is likely to injure or interferes with or is likely to interfere with any sewage treatment process or constitutes or is likely to constitute a hazard to persons or animals or creates or is likely to create any hazard in the waters receiving the effluent of the main sewage treatment plant;

g. Any noxious or malodorous gas or substance that creates a public nuisance; or

h. Stormwater sewage or surface or subsurface water.

(2) If the City finds that any of the waters, wastes or effluent set forth in subsection (1) of this section are being discharged into the City's wastewater system, the grantee will cause such discharge to be discontinued or will provide and install such facilities, devices and equipment as are necessary to prevent the consequences resulting from the discharge of such waters, wastes or effluent into the City's wastewater system. The character and capacity of such facilities, devices and equipment shall be of such standard as shall be prescribed by the City and shall be installed in such place as will be readily and easily accessible for observation, maintenance, operation, sampling, cleaning and inspection. The cost of providing, installing, maintaining, cleaning and operating such facilities, devices and equipment shall be borne by the grantee. If the grantee fails, refuses or neglects to provide, install, maintain, clean or operate such facilities, devices and equipment or fails, refuses or neglects to do so in a proper and efficient manner, the grantee will pay to the City such charges as the City may prescribe for treating the effluent discharged by the grantee into the City's wastewater system to prevent the consequences resulting from the discharge of such waters, wastes or effluent into the City's wastewater system.

(3) All measurements, tests and analyses of the characteristics of such waters, wastes or effluent shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and

Wastewater, as prepared, approved and published jointly by the American Public Health Association and the American Water Works Association, when applicable.

(4) The City will treat and dispose of the sanitary sewage so conveyed to and discharged into the City's wastewater system in the same manner and to the same extent or degree as it treats and disposes of all other sewage.

(5) The appropriate City agency shall have the right to inspect all services at any time, and any violation of the provisions contained in this section shall be deemed sufficient cause to discontinue such services.

(6) Sewage shall not be discharged at any rate greater than 100 gallons per minute into one connection, without the written approval of the Chief Administrative Officer.

(7) The installation of wastewater service connections between the property line and the building shall be installed according to the City's plans and specifications.

(Code 1993, § 29-143; Code 2004, § 106-544; Code 2015, § 28-590; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-591. Resident and nonresident users.

When a service connection for wastewater service is made to a lot divided by the corporation line of the City, such lot shall be deemed to be within the corporate City limits if the portion of real estate taxes on land and improvements or improvements that may be placed thereon paid to the City is equal to or greater than the portion of real estate taxes on land and improvements or improvements that may be placed thereon paid to the locality, and all laws, ordinances, resolutions, rules and regulations governing wastewater services in the City shall apply thereto. When a service connection for wastewater service is made to any other lot divided by the corporation line of the City, such lot shall be deemed to be without the corporate City limits, and all laws, ordinances, resolutions, rules and regulations governing wastewater services without the City shall apply thereto.

(Code 1993, § 29-152; Code 2004, § 106-545; Code 2015, § 28-591)

Sec. 28-592. Payment of costs of extending sanitary sewer lines; connection fees.

The entire cost, including engineering and inspection costs, of constructing a sanitary sewer extension and connections within and without the corporate City limits shall be paid by the grantee subject to the following terms and conditions:

(1) The responsibility for and the entire cost, including engineering and inspection costs, of maintaining or repairing a City-owned sanitary sewer extension within and without the corporate City limits shall be that of and shall be paid by the City.

(2) Title to a sanitary sewer extension within the corporate City limits shall vest in the City upon completion of the construction of the extension, unless the Director of Public Utilities determines that the sewer extension shall remain private. Title to a sanitary sewer extension without the corporate City limits shall vest in the City upon completion of the construction of the extension if the Director agrees in writing that the City will accept the extension, and if the acceptance is lawful in light of other requirements of law regarding neighboring jurisdictions.

(3) If the City's plans call for a pipe larger than that required to serve the needs of the grantee, the City will bear the additional cost for a sanitary sewer larger than that required to serve the grantee, provided funds are available therefor. There will be no combined sewer extensions permitted within or without the corporate City limits, however this requirement shall not prevent the connection of new sanitary sewers to existing combined sewers for the purpose of conveying sanitary sewage to the City's treatment plant.

(4) The applicant shall secure from the governing body of the locality into which the sanitary sewer is to be extended a written statement to the effect that:

a. The locality does not desire to make such extension;

b. The locality authorizes the construction of such extension; and

c. The locality authorizes the City or the grantee to maintain such extension.

(5) If a grantee to be served by a City-owned sanitary sewer extension does not receive water service from

the City, the grantee shall nonetheless be responsible for paying the appropriate rate for wastewater service.

(6) The owner of property on which is or will be constructed a building or structure in which plumbing fixtures are or will be installed shall make application to the Director for each connection to discharge sewage. The fee for adding a sewer connection to a sanitary sewer main or a combined sewer main will be as provided below except as provided in subsection (9) of this section. If making a stormwater connection, applicable fees shall apply. Construction of sanitary sewer facilities shall be the responsibility of the property owner or customer. The Director may approve the connection provided such sanitary or combined sewer facilities are available in sufficient capacity and grade to serve the property. No new connection shall be made to the combined sewers where the connection would cause overflows during dry weather conditions. The Director may reject any connection to a combined sewer main at the Director's discretion.

Connection Charges (sewer)			
Meter Size (inches)	*Service Installation Charge*	*Capacity Charge*	*Total Connection Charge*
5/8	$200.00	$1,250.00	$1,450.00
3/4	$200.00	$1,850.00	$2,050.00
1	$200.00	$3,100.00	$3,300.00
1 1/2	$200.00	$6,150.00	$6,350.00
2	$200.00	$9,800.00	$10,000.00
3	$250.00	$18,400.00	$18,650.00
4	$250.00	$30,650.00	$30,900.00
6	$300.00	$61,250.00	$61,550.00
8	$300.00	$98,000.00	$98,300.00

(7) Whenever an existing sanitary or combined sewer connection is replaced at the request of the grantee, and the grantee increases the size of the water meter, the Director may require the owner or occupant to pay the full sewer connection charge set forth below based upon the size of the new meter size. Whenever an existing sanitary or combined sewer service connection is replaced at the request of the owner with one of lesser capacity, the owner or occupant shall receive no refund for any connection charges originally paid.

Connection Charges (sewer)			
Meter Size (inches)	*Service Installation Charge*	*Capacity Charge*	*Total Connection Charge*
5/8	$200.00	$1,250.00	$1,450.00
3/4	$200.00	$1,850.00	$2,050.00
1	$200.00	$3,100.00	$3,300.00
1 1/2	$200.00	$6,150.00	$6,350.00
2	$200.00	$9,800.00	$10,000.00
3	$250.00	$18,400.00	$18,650.00
4	$250.00	$30,650.00	$30,900.00
6	$300.00	$61,250.00	$61,550.00

8	$300.00	$98,000.00	$98,300.00

(8) Owners of buildings or structures who paid the County of Chesterfield a sewer connection fee prior to January 1, 1970, and who have not connected to the wastewater system may connect to the existing wastewater service line at their property line after obtaining the required plumbing permit without the payment of any additional wastewater service connection fee. If a new service line is required or desired, the provisions of this section, as applicable, shall apply.

(9) With regard to commercial or industrial accounts for which the sewer flow differs from the metered water flow, the water meter size used to determine the total connection charge set forth in this section shall be adjusted as provided in this subsection for the purpose of better reflecting the actual cost of service. To qualify for an adjustment of the water meter size used to determine the total connection charge, the owner or customer shall (i) submit an engineering analysis that, in compliance with the Department's regulations, projects by how much flows that will be discharged to the City's wastewater system will be less than the flows upon which the total connection charges set forth in this section and (ii) thereafter measure its wastewater flows with a sewage flow meter, installed and paid for by the owner or customer, that complies with and is operated and maintained in compliance with the Department's regulations. Any adjustment to the water meter size shall be in direct proportion to the reduction in wastewater flows projected in the engineering analysis. The total connection charge shall be determined based on the adjusted water meter size instead of the actual water meter size. If after a total connection charge based on an adjusted water meter size has been paid, the Department determines, based on flow meter measurements or otherwise, that the adjusted water meter size used to determine the total connection charge does not properly reflect the wastewater flows projected in the engineering analysis, the Department shall assess the owner or customer an amount equal to the difference between the total connection charge based on the actual water meter size and the total connection charge actually paid by the owner or customer. The Director shall adopt rules and regulations pursuant to Section 28-26 to implement the provisions of this subsection.

(Code 1993, § 29-153; Code 2004, § 106-546; Code 2015, § 28-592; Ord. No. 2007-245-204, § 1, 9-24-2007; Ord. No. 2008-98-126, §§ 2, 5, 5-27-2008; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2016-256, § 1, 11-14-2016)

Sec. 28-593. Suspension of service and termination of contracts.

(a) Individual wastewater service may be suspended by the Chief Administrative Officer at any time whenever:

(1) The use of water is excessive or interferes with or impairs the maintenance or operation of the City's production and distribution system;

(2) The volume of wastewater discharged into the City's wastewater system or facilities overcharges or is likely to overcharge such system or facilities;

(3) The grantee fails, refuses or neglects to observe and comply with the terms and conditions of the contract or all laws, ordinances, resolutions, rules and regulations governing wastewater services;

(4) Water is or may be required for the use of consumers in the City or the City's wastewater system or facilities are or may be required to provide wastewater disposal service to residents of the City; or

(5) The locality undertakes to supply such services.

(b) Individual wastewater service may be suspended by the Mayor or Chief Administrative Officer at any time without notice whenever an emergency exists.

(c) Individual wastewater service contracts may be terminated by either party thereto upon giving written notice to that effect to the other party 12 months prior to the date of termination. The notice on the part of the City shall be given by the Chief Administrative Officer whenever, in the Mayor's or Chief Administrative Officer's judgment or that of the Council, such contracts should be terminated.

(Code 1993, § 29-154; Code 2004, § 106-547; Code 2015, § 28-593; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 28-594. Assignment of individual contracts.

The grantee under an individual contract pursuant to this division may assign such contracts and rights, benefits, privileges, duties and obligations inured, received, imposed and assumed thereby to the tenants of the property receiving wastewater service or to another owner thereof, except the right to reimbursement by the City under Section 28-592(9) shall not be assigned.

(Code 1993, § 29-155; Code 2004, § 106-548; Code 2015, § 28-594)

Sec. 28-595. Determination of time for construction of mains; size and character of mains.

The Director shall determine when sewer mains shall be constructed in streets or easements and the character and size of the mains. Mains shall be installed in easements only when, in the opinion of the Director, there is no other practical method of conveying wastewater.

(Code 1993, § 29-46; Code 2004, § 106-549; Code 2015, § 28-595)

Secs. 28-596—28-623. Reserved.

DIVISION 2. WASTEWATER RATES AND OTHER REGULATIONS RELATING THERETO*

***State law reference—**Fees and charges for water and sewer services, Code of Virginia, § 15.2-2119.

Subdivision I. In General

Secs. 28-624—28-649. Reserved.

Subdivision II. Rates Within City

Sec. 28-650. Residential wastewater service.

(a) *Application.* This section shall apply to disposal of wastewater discharged into the City's wastewater system from individual residences, owner-occupied duplexes or nonprofit facilities that provide transitional housing for residential use on a regular basis by homeless persons that have a connection to the City's wastewater system.

(b) *Monthly minimum charge.* The monthly minimum charge is the service charge.

(c) *Monthly service charge and service charges for wastewater meters.* The monthly service charge shall be as set forth below. Each residential wastewater service customer shall pay the service charge determined by the size of the customer's water meter, unless the customer is eligible to receive a discount to the service charge for installing fire suppression equipment. The Director, pursuant to Section 28-26, shall issue rules and regulations to establish the parameters for such a discount. The service charges for wastewater meters shall be estimated in accordance with a procedure approved by the Director of Public Utilities.

(1)	Monthly service charges based on the size of each water meter located on the users' premises, excluding fire line, product water and wastewater meters:	
	Meter size (inches)	
	5/8	$18.21
	3/4	$25.98
	1	$41.53
	1 1/2	$80.41
	2	$127.05
	3	$251.44
	4	$391.38
	6	$780.10
	8	$1,246.56

	10	$1,790.77
(2)	Service charges for customers who receive fire line service and general water service through the same meter, based on the size of each such water meter located on the users' premises, excluding product water and wastewater meters:	
	Domestic and fire line meter size (inches)	
	10	$780.10
	8	$391.38
	6	$251.44
	4	$127.05
	3	$127.05

(d) *Monthly volume charge.* The monthly volume charge for the quantity of water which passes through the meters for residential wastewater service for the months of December through February shall be $7.295 per 100 cubic feet (ccf) of water delivered as recorded on the customer's water meter. The monthly volume charge for the quantity of water which passes through the meters for residential wastewater service for the months of March through November shall be $7.295 per 100 cubic feet (ccf) of water based upon:

(1) The cubic feet of water delivered as recorded on the customer's water meter in such months; or

(2) The average monthly use as billed during the preceding months of December through February;

whichever is lower.

(e) *Special provisions.*

(1) *Private water supply (unmetered service).* Whenever any user obtains all or part of the user's water supply from an unmetered source other than the water distribution system of the City (i.e., a private well), such user will be billed a flat service charge of $65.60 per month.

(2) *Public water supply (metered service).* Whenever any user obtains all or part of the user's water supply from a public water supply that meters the customer, other than the water distribution system of the City, the quantity of wastewater service used by the customer may be determined either from metered water consumption or from a wastewater meter. If the wastewater usage to be billed by the City is based upon a reading of a water meter by another public body, the wastewater customer will be billed on a schedule based upon the availability of water consumption data. However, regardless of the schedule or frequency of billing, the customer will be responsible to pay the same rates as any other residential wastewater customer. For verification purposes, all water meters serving a customer receiving wastewater service under this section shall be open to inspection by the Director.

(3) *Cost adjustment clause.* The charge specified in the monthly charge may be subject to an adjustment in the rate per 100 cubic feet for increases or decreases in the cost associated with electric energy and chemicals.

(4) *No facilities physically connected to wastewater system.* The minimum monthly charge as hereinbefore set forth shall be paid by all users who have obtained a wastewater connection but have not made a physical connection to the City's wastewater system.

(5) *Residential wastewater service charges for meters having a capacity greater than five-eighths inch; special provision.* The monthly service charge for each residential wastewater customer, with service established on or before the adoption of the ordinance from which this subsection is derived and having a water meter capacity greater than five-eighths inch, shall be equal to the monthly service charge for a five-eighths inch meter size as set forth in this section. The monthly service charge for each residential wastewater customer, with service established after the adoption of the ordinance from which this subsection is derived and having a water meter capacity greater than five-eighths inch, shall be based

upon the meter capacity as set forth in this section.

(Code 1993, § 29-327; Code 2004, § 106-586; Code 2015, § 28-650; Ord. No. 2004-93-122, § 1, 5-24-2004; Ord. No. 2005-100-108, § 1, 5-31-2005; Ord. No. 2006-75-143, § 1, 5-30-2006; Ord. No. 2008-98-126, §§ 2, 4, 5-27-2008; Ord. No. 2009-59-82, § 1, 5-26-2009; Ord. No. 2009-113-122, § 1, 6-22-2009; Ord. No. 2010-86-99, § 1, 5-24-2010; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2012-49-64, § 1, 5-14-2012; Ord. No. 2013-62-91, §§ 1, 2, 5-28-2013; Ord. No. 2014-44-102, § 1, 5-27-2014; Ord. No. 2015-62-93, § 1, 5-15-2015; Ord. No. 2016-069, § 1, 5-13-2016; Ord. No. 2017-061, § 1, 5-15-2017; Ord. No. 2018-093, § 1, 5-14-2018; Ord. No. 2019-070, § 1, 5-13-2019; Ord. No. 2019-192, § 1, 7-22-2019)

Sec. 28-651. Charges for disposal of sewage and wastewater—Commercial service.

(a) *Application.* This section shall apply to the disposal of wastewater discharged into the City's wastewater system from places of business, such as hotels, restaurants, office buildings, commercial businesses or other places of commerce or multifamily residences and that have a connection to the City's wastewater system; provided, however, that this schedule shall not apply to contracts heretofore or hereafter entered into between the City and a county.

(b) *Monthly minimum charge.* The monthly minimum charge is the service charge below, determined by the size of a customer's water meter.

(c) *Monthly service charge.* The monthly service charge is as shown below, and dependent on the existence, or lack thereof, of fire line service.

(1) *Determination of service charge for customers who receive fire line service through a separate meter or who do not receive fire line service.* The service charge will be based on the size of each water meter located on users' premises, excluding fire line, product water and wastewater meters, as follows:

Meter Size (inches)	
5/8	$18.21
3/4	$25.98
1	$41.53
1 1/2	$80.41
2	$127.05
3	$251.44
4	$391.38
6	$780.10
8	$1,246.56
10	$1,790.77

(2) *Determination of service charge for customers who receive fire line service and general water service through the same meter.* The service charge will be based on the size of each such water meter located on users' premises, excluding product water and wastewater meters, as follows:

Domestic and Fire Line Meter Size (inches)	
10	$780.10
8	$391.38
6	$251.44
4	$127.05

3	$127.05

(3) *Service charges for wastewater meters.* The service charge for wastewater meters shall be estimated in accordance with a procedure approved by the Director of Public Utilities.

(d) *Monthly volume charge.* Monthly quantity charge shall be $7.295 per 100 cubic feet of water delivered as recorded on water meters or wastewater meters.

(e) *Special provisions.*

(1) *Private water supply.* Whenever any user obtains all or part of the user's water supply from sources other than the water distribution system of the City, the quantities of wastewater may be determined either from the total metered water consumption, both City and private supplies, or from the metered quantities of wastewater discharged to the wastewater system. All meters on private water supplies and all wastewater meters shall be provided and maintained to produce an accurate record of the true quantities of water and wastewater discharged to the wastewater system. All costs of meter installation, calibration and maintenance shall be borne by the user at the user's own expense. The type of meters shall be acceptable to the Director of Public Utilities, and the meters shall be accessible at all times for inspection by the Director.

(2) *Strong wastewater charge.* In addition to the foregoing charges, the monthly charges shall apply for the treatment of strong wastewater discharged into the City's wastewater system as follows:

a.	Suspended solids in excess of 275 milligrams per liter when the concentrations of suspended solids exceed 275 milligrams per liter, per pound	$0.2247
b.	BOD of those concentrations of BOD in excess of 250 milligrams per liter, when the concentrations of BOD exceed 250 milligrams per liter, per pound; provided, however, for places of business classified in either Industry 312120 or Industry 312130 pursuant to the North American Industry Classification System (NAICS), the mass used for calculating the charge shall be computed by subtracting SBOD from BOD and using the difference	$0.2763
c.	Total nitrogen in excess of 30 milligrams per liter, when the concentrations of total nitrogen exceed 30 milligrams per liter, per pound	$0.9690
d.	Total phosphorous in excess of 12 milligrams per liter, when the concentrations of total phosphorous exceed 12 milligrams per liter, per pound	$1.2403

(3) *Cost adjustment clause.* The charge specified in the monthly volume charge may be subject to an adjustment in the rate per 100 cubic feet for increases or decreases in the cost associated with electric energy and chemicals.

(Code 1993, § 29-326; Code 2004, § 106-587; Code 2015, § 28-651; Ord. No. 2004-93-122, § 1, 5-24-2004; Ord. No. 2005-100-108, § 1, 5-31-2005; Ord. No. 2006-75-143, § 1, 5-30-2006; Ord. No. 2008-98-126, §§ 2, 4, 5-27-2008; Ord. No. 2009-59-82, § 1, 5-26-2009; Ord. No. 2010-86-99, § 1, 5-24-2010; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2012-49-64, § 1, 5-14-2012; Ord. No. 2013-62-91, § 2, 5-28-2013; Ord. No. 2014-44-102, § 1, 5-27-2014; Ord. No. 2014-215-196, § 2, 10-27-2014; Ord. No. 2015-62-93, § 1, 5-15-2015; Ord. No. 2016-069, § 1, 5-13-2016; Ord. No. 2017-061, § 1, 5-15-2017; Ord. No. 2018-093, § 1, 5-14-2018; Ord. No. 2019-070, § 1, 5-13-2019; Ord. No. 2019-192, § 1, 7-22-2019)

Sec. 28-652. Charges for disposal of sewage and wastewater—Industrial service.

(a) *Application.* This section shall apply to the disposal of wastewater discharged into the City's wastewater system from places that are primarily manufacturers or processors of materials, and that have a connection to the City's wastewater system; provided, however, that this schedule shall not apply to contracts heretofore or hereafter entered into between the City and a county.

(b) *Monthly minimum charge.* The monthly minimum charge is the service charge below, determined by the

size of a customer's water meter.

(c) *Monthly service charge.* The monthly service charge is as shown below by meter size, and dependent on the existence, or lack thereof, of fire line service.

(1) *Determination of service charge for customers who receive fire line service through a separate meter or who do not receive fire line service.* The service charge will be based on the size of each water meter located on users' premises, excluding fire line, product water and wastewater meters, as follows:

Meter Size (inches)	
5/8	$18.21
3/4	$25.98
1	$41.53
1 1/2	$80.41
2	$127.05
3	$251.44
4	$391.38
6	$780.10
8	$1,246.56
10	$1,790.77
12	$2,749.77

(2) *Determination of service charge for customers who receive fire line service and general water service through the same meter.* The service charge will be based on the size of each such water meter located on users' premises, excluding product water and wastewater meters, as follows:

Domestic and Fire Line Meter Size (inches)	
10	$780.10
8	$391.38
6	$251.44
4	$127.05
3	$127.05

(3) *Service charges for wastewater meters.* The service charge for wastewater meters shall be estimated in accordance with a procedure approved by the Director of Public Utilities.

(d) *Monthly volume charge.* The monthly volume charge shall be $7.295 per 100 cubic feet of water delivered as recorded on water meters or wastewater meters.

(e) Special provisions.

(1) *Private water supply.* Whenever any user obtains all or part of the user's water supply from sources other than the water distribution system of the City, the quantities of wastewater may be determined either from the total metered water consumption, both City and private supplies, or from the metered quantities of wastewater discharged to the wastewater system. All meters on private water supplies and all

wastewater meters shall be provided and maintained to produce an accurate record of the true quantities of water and wastewater discharged to the wastewater system. All costs of meter installation, calibration and maintenance shall be borne by the user at the user's own expense. The type of meters shall be acceptable to the Director of Public Utilities, and the meters shall be accessible at all times for inspection by the Director.

(2) *Strong wastewater charge.* In addition to the foregoing charges, the monthly charges shall apply for the treatment of strong wastewater discharged into the City's wastewater system as follows:

a.	Suspended solids in excess of 275 milligrams per liter when the concentrations of suspended solids exceed 275 milligrams per liter, per pound	$0.2247
b.	BOD of those concentrations of BOD in excess of 250 milligrams per liter, when the concentrations of BOD exceed 250 milligrams per liter, per pound	$0.2763
c.	Total nitrogen in excess of 30 milligrams per liter, when the concentrations of total nitrogen exceed 30 milligrams per liter, per pound	$0.9690
d.	Total phosphorous in excess of 12 milligrams per liter, when the concentrations of total phosphorous exceed 12 milligrams per liter, per pound	$1.2403

(3) *Cost adjustment clause.* The charge specified in the monthly volume charge may be subject to an adjustment in the rate per 100 cubic feet for increases or decreases in the cost associated with electric energy and chemicals.

(Code 2004, § 106-588; Code 2015, § 28-652; Ord. No. 2008-98-126, §§ 1, 5, 5-27-2008; Ord. No. 2009-59-82, § 1, 5-26-2009; Ord. No. 2010-86-99, § 1, 5-24-2010; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2012-49-64, § 1, 5-14-2012; Ord. No. 2013-62-91, § 2, 5-28-2013; Ord. No. 2014-44-102, § 1, 5-27-2014; Ord. No. 2015-62-93, § 1, 5-15-2015; Ord. No. 2016-069, § 1, 5-13-2016; Ord. No. 2017-061, § 1, 5-15-2017; Ord. No. 2018-093, § 1, 5-14-2018; Ord. No. 2019-070, § 1, 5-13-2019; Ord. No. 2019-192, § 1, 7-22-2019)

Sec. 28-653. Charges for disposal of sewage and wastewater—State and Federal service.

(a) *Application.* This section shall apply to the disposal of wastewater discharged into the City's wastewater system from State or Federal agencies and departments or authorities, and that have a connection to the City's wastewater system; provided, however, that this schedule shall not apply to contracts heretofore or hereafter entered into between the City and any adjoining county.

(b) *Monthly minimum charge.* The monthly minimum charge is the service charge below, determined by the size of a customer's water meter.

(c) *Monthly service charge.* The monthly service charge is as shown below by meter size, and dependent on the existence, or lack thereof, of fire line service.

(1) *Determination of service charge for customers who receive fire line service through a separate meter or who do not receive fire line service.* The service charge will be based on the size of each water meter located on users' premises, excluding fire line, product water and wastewater meters, as follows:

Meter Size (inches)	
5/8	$18.21
3/4	$25.98
1	$41.53
1 1/2	$80.41
2	$127.05

3	$251.44
4	$391.38
6	$780.10
8	$1,246.56
10	$1,790.77
12	$2,749.77

(2) *Determination of service charge for customers who receive fire line service and general water service through the same meter.* The service charge will be based on the size of each such water meter located on users' premises, excluding product water and wastewater meters, as follows:

Domestic and Fire Line Meter Size (inches)	
10	$780.10
8	$391.38
6	$251.44
4	$127.05
3	$127.05

(3) *Service charges for wastewater meters.* The service charge for wastewater meters shall be estimated in accordance with a procedure approved by the Director of Public Utilities.

(d) *Monthly volume charge.* The monthly volume charge shall be $7.295 per 100 cubic feet of water delivered as recorded on water meters or wastewater meters.

(e) *Special provisions.*

(1) *Private water supply.* Whenever any user obtains all or part of the user's water supply from sources other than the water distribution system of the City, the quantities of wastewater may be determined either from the total metered water consumption, both City and private supplies, or from the metered quantities of wastewater discharged to the wastewater system. All meters on private water supplies and all wastewater meters shall be provided and maintained to produce an accurate record of the true quantities of water and wastewater discharged to the wastewater system. All costs of meter installation, calibration and maintenance shall be borne by the user at the user's own expense. The type of meters shall be acceptable to the Director of Public Utilities, and the meters shall be accessible at all times for inspection by the Director.

(2) *Strong wastewater charge.* In addition to the foregoing charges, the monthly charges shall apply for the treatment of strong wastewater discharged into the City's wastewater system as follows:

a.	Suspended solids in excess of 275 milligrams per liter when the concentrations of suspended solids exceed 275 milligrams per liter, per pound	$0.2247
b.	BOD of those concentrations of BOD in excess of 250 milligrams per liter, when the concentrations of BOD exceed 250 milligrams per liter, per pound	$0.2763
c.	Total nitrogen in excess of 30 milligrams per liter, when the concentrations of total nitrogen exceed 30 milligrams per liter, per pound	$0.9690

d.	Total phosphorous in excess of 12 milligrams per liter, when the concentrations of total phosphorous exceed 12 milligrams per liter, per pound	$1.2403

(3) *Cost adjustment clause.* The charge specified in the monthly quantity charge may be subject to an adjustment in the rate per 100 cubic feet for increases or decreases in the cost associated with electric energy and chemicals.

(Code 2004, § 106-589; Code 2015, § 28-653; Ord. No. 2008-98-126, §§ 1, 5, 5-27-2008; Ord. No. 2009-59-82, § 1, 5-26-2009; Ord. No. 2010-86-99, § 1, 5-24-2010; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2012-49-64, § 1, 5-14-2012; Ord. No. 2013-62-91, § 2, 5-28-2013; Ord. No. 2014-44-102, § 1, 5-27-2014; Ord. No. 2015-62-93, § 1, 5-15-2015; Ord. No. 2016-069, § 1, 5-13-2016; Ord. No. 2017-061, § 1, 5-15-2017; Ord. No. 2018-093, § 1, 5-14-2018; Ord. No. 2019-070, § 1, 5-13-2019; Ord. No. 2019-192, § 1, 7-22-2019)

Sec. 28-654. Charges for disposal of sewage and wastewater—Municipal service.

(a) *Application.* This section shall apply to the disposal of wastewater discharged into the City's wastewater system from governments that are not Federal or State agencies or departments or authorities, and that have a connection to the City's wastewater system; provided, however, that this schedule shall not apply to contracts heretofore or hereinafter entered into between the City and a county.

(b) *Monthly minimum charge.* The monthly minimum charge is the service charge below, determined by the size of a customer's water meter.

(c) *Monthly service charge.* The monthly service charge is as shown below by meter size, and dependent on the existence, or lack thereof, of fire line service.

(1) *Determination of service charge for customers who receive fire line service through a separate meter or who do not receive fire line service.* The service charge will be based on the size of each water meter located on users' premises, excluding fire line, product water and wastewater meters, as follows:

Meter Size (inches)	
5/8	$18.21
3/4	$25.98
1	$41.53
1 1/2	$80.41
2	$127.05
3	$251.44
4	$391.38
6	$780.10
8	$1,246.56
10	$1,790.77
12	$2,749.77

(2) *Determination of service charge for customers who receive fire line service and general water service through the same meter.* The service charge will be based on the size of each such water meter located on users' premises, excluding product water and wastewater meters, as follows:

Domestic and Fire Line Meter Size (inches)	

10	$780.10
8	$391.38
6	$251.44
4	$127.05
3	$127.05

(3) *Service charges for wastewater meters.* The service charge for wastewater meters shall be estimated in accordance with a procedure approved by the Director of Public Utilities.

(d) *Monthly volume charge.* The monthly volume charge shall be $7.295 per 100 cubic feet of water delivered as recorded on water meters or wastewater meters.

(e) *Special provisions.*

(1) *Private water supply.* Whenever any user obtains all or part of the user's water supply from sources other than the water distribution system of the City, the quantities of wastewater may be determined either from the total metered water consumption, both City and private supplies, or from the metered quantities of wastewater discharged to the wastewater system. All meters on private water supplies and all wastewater meters shall be provided and maintained to produce an accurate record of the true quantities of water and wastewater discharged to the wastewater system. All costs of meter installation, calibration and maintenance shall be borne by the user at the user's own expense. The type of meters shall be acceptable to the Director of Public Utilities, and the meters shall be accessible at all times for inspection by the Director.

(2) *Strong wastewater charge.* In addition to the foregoing charges, the monthly charges shall apply for the treatment of strong wastewater discharged into the City's wastewater system as follows:

a.	Suspended solids in excess of 275 milligrams per liter when the concentrations of suspended solids exceed 275 milligrams per liter, per pound	$0.2247
b.	BOD of those concentrations of BOD in excess of 250 milligrams per liter, when the concentrations of BOD exceed 250 milligrams per liter, per pound	$0.2763
c.	Total nitrogen in excess of 30 milligrams per liter, when the concentrations of total nitrogen exceed 30 milligrams per liter, per pound	$0.9690
d.	Total phosphorous in excess of 12 milligrams per liter, when the concentrations of total phosphorous exceed 12 milligrams per liter, per pound	$1.2403

(3) *Cost adjustment clause.* The charge specified in the monthly volume charge may be subject to an adjustment in the rate per 100 cubic feet for increases or decreases in the cost associated with electric energy and chemicals.

(Code 2004, § 106-590; Code 2015, § 28-654; Ord. No. 2008-98-126, §§ 1, 5, 5-27-2008; Ord. No. 2009-59-82, § 1, 5-26-2009; Ord. No. 2010-86-99, § 1, 5-24-2010; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2012-49-64, § 1, 5-14-2012; Ord. No. 2013-62-91, § 2, 5-28-2013; Ord. No. 2014-44-102, § 1, 5-27-2014; Ord. No. 2015-62-93, § 1, 5-15-2015; Ord. No. 2016-069, § 1, 5-13-2016; Ord. No. 2017-061, § 1, 5-15-2017; Ord. No. 2018-093, § 1, 5-14-2018; Ord. No. 2019-070, § 1, 5-13-2019; Ord. No. 2019-192, § 1, 7-22-2019)

Secs. 28-655—28-681. Reserved.

Subdivision III. Wastewater Treatment Service Outside City

Sec. 28-682. Wastewater service through sewers connected to City's wastewater system.

Wastewater treatment service shall be supplied to occupants of property situated beyond the corporate City

limits through sewers or sewer systems located in the City or through sewers or sewer systems beyond the corporate City limits which are connected with those in the City, in accordance with the schedules of charges set out in subdivision II of this division and upon the terms and conditions set forth in this subdivision, and the owners or occupants of such property shall be charged and shall pay for such service at the charges or rates prescribed in such schedules, except as provided for in the City's wholesale wastewater contracts.

(Code 1993, § 29-351; Code 2004, § 106-606; Code 2015, § 28-682; Ord. No. 2008-98-126, § 2, 5-27-2008)

Sec. 28-683. Sewer service for property outside corporate limits.

(a) *Applicability.* The schedule of charges set out in subdivision II of this division shall apply to the disposal of sanitary sewage originating on property situated beyond the corporate City limits, through the sewers or sewer systems referenced in Section 28-682, used for residential, commercial, industrial, or governmental purposes.

(b) *Service charge for individual contracts.* The charge or rate applicable to contracts made with residential, commercial, industrial, or governmental customers shall be computed pursuant to subdivision II of this division, which charge or rate may be increased or decreased at any time and from time to time by the City Council.

(c) *Service charge for locality contract.* The charge or rate applicable to contracts made with a locality for supplying such service to residential owners or occupants of dwellings or to other users shall be in accordance with the provisions of the appropriate existing contract.

(d) *Payment.* The charges prescribed for service to a locality shall be payable by such locality in accordance with the provisions of the appropriate existing contract.

(e) *Availability.* Sewage disposal service shall not be available for any property unless a water service is available and water is used on such property and the quantity of water used thereon is measured through a meter of such make, size and character which is installed at such place and in such a manner and with such materials as shall be approved by the Director, unless the water is obtained from a private well located on the property.

(Code 1993, § 29-352; Code 2004, § 106-607; Code 2015, § 28-683; Ord. No. 2008-98-126, § 2, 5-27-2008)

Secs. 28-684—28-709. Reserved.

DIVISION 3. SEWERS AND DRAINS

Sec. 28-710. Duties of owners and tenants.

Owners and tenants of premises with occupied buildings thereon shall comply with the following applicable requirements:

(1) The owner of a premises with a newly constructed or an existing building thereon shall apply to the Department for a wastewater service connection prior to occupancy of the building; however, an individual wastewater disposal system approved by the Director of Public Health may be used if the department of public utilities cannot provide wastewater service.

(2) Unless otherwise authorized in accordance with rules and regulations made pursuant to Section 28-26, the occupants of all buildings to which a City water connection has been made shall use City water to flush all toilets and to carry all wastewater into the City wastewater system or individual wastewater disposal system. Any rules and regulations proposed by the Director pursuant to this subsection shall take into account, inter alia, consultations with the City's Bureau of Permits and Inspections, the Virginia Department of Health, the Virginia Department of Environmental Quality, and other appropriate regulatory agencies of the Commonwealth.

(3) If wastewater service to an occupied building is terminated by the Department as a result of a delinquent water or sewer bill, a notice may be served by the Department of Public Health upon the person in whose name the bill is listed requiring that satisfactory arrangements be made with the Department of Public Utilities for payment of the delinquent bill and restoration of water service. Service of the notice shall be made by mailing the notice to the last known post office address of the person in whose name the bill is listed, by serving the notice in person on the person in whose name the bill is listed, or by serving the notice upon a responsible person above the age of 16 years who is an occupant of the building in which the person in whose name the bill is listed lives or works. If compliance with the notice does not occur

within the prescribed time or acceptable arrangements for compliance are not made with the District Health Department, the person in whose name the bill is listed may be summoned to court.

(4) Notwithstanding the requirements of subsections (1) and (2) of this section, owners of premises in which another wastewater disposal system, approved by the District Health Director, was installed and used prior to January 1, 1970, shall not be required to connect to the City wastewater systems as long as the maintenance and operation of the wastewater disposal system is not detrimental to public health and safety.

(Code 1993, § 29-58; Code 2004, § 106-631; Code 2015, § 28-710; Ord. No. 2015-203-193, § 1, 9-28-2015)

Sec. 28-711. Application for service connections.

Application for wastewater service connections shall be made by owners of premises to be served or by the occupants thereof through licensed plumbers, unless otherwise authorized in Chapter 5 which pertains to buildings and building regulations, to the Director on forms provided, and no wastewater service shall be connected until the Director shall approve such application.

(Code 1993, § 29-67; Code 2004, § 106-632; Code 2015, § 28-711)

Sec. 28-712. Payment of additional fee upon change in zoning classification, use of property or intensification of existing use.

The owner of property who has an existing, previously paid connection to either sanitary sewer or combined sewer available to the property and who obtains a change in the zoning classification or changes the use of the subject property or increases the intensity of an existing use may utilize the existing connection. The Director may reject the reuse of an existing combined sewer connection at the Director's discretion. Use of a sanitary sewer connection will be approved provided such sanitary or combined sewer facilities are available in sufficient capacity and grade. If an owner has previously paid the connection fee and if the change in zoning or use or intensity of use requires an upgraded water meter, the owner will be required to pay the difference in the existing sewer connection fee based upon the size of the original water meter and the upgraded water meter. Allowance of a credit for a connection fee previously paid shall not constitute an authorization for the payment of a refund of any part of a connection fee previously paid for an existing connection or privilege to connect in the future.

(Code 1993, § 29-294; Code 2004, § 106-635; Code 2015, § 28-712; Ord. No. 2008-98-126, § 2, 5-27-2008)

Sec. 28-713. Fees for City to unstop sewer on private property.

(a) When the City is requested or required to unstop a sewer line on private property the fees set forth below shall be imposed. The property owner is responsible for the physical connection between the pipes within the right-of-way or easement and all pipes on private property.

(1)	During regular working hours, per hour	$40.00
	Minimum fee	$70.00
(2)	After regular working hours, per hour	$60.00
	Minimum fee	$170.00

(b) The Director may enter private property to unstop a sewer located on the property without the property owner's permission if the stoppage threatens the public health, safety, or welfare, including the environment, or the City wastewater system. The owner of the property upon which the sewer is located shall be subject to the same fees as required in this section in addition to any other applicable fees and costs.

(Code 1993, § 29-296; Code 2004, § 106-637; Code 2015, § 28-713)

Sec. 28-714. Responsibility for damage; disconnection for nonpayment.

Owners and occupants of premises connected directly or indirectly with the wastewater collection system shall be responsible for all damages to service connections, meters and equipment occasioned thereto by the negligence

of such owners and occupants and their agents, servants and employees. The Director shall investigate and determine the responsibility for damages to such connections, meters and equipment and shall make or cause to be made necessary renewals or repairs thereto and shall collect the cost of them from owners or occupants responsible therefor. If such cost and expense is not paid within 30 days after presentation of a bill therefor, the Director shall cause the supply of water and/or wastewater service to be stopped, and the service stopped shall not thereafter be furnished to such premises for such owner or occupant until such cost and expense shall have been paid.

(Code 1993, § 29-60; Code 2004, § 106-638; Code 2015, § 28-714)

Secs. 28-715—28-741. Reserved.

DIVISION 4. DISCHARGE OF WASTES INTO SEWERS

Sec. 28-742. Discharge of industrial wastes into feeder or tributaries.

It shall be unlawful for any person to discharge or to cause or permit to be discharged into the feeder or into any stream tributary thereto or on the surface of the ground in such place that it will be washed into the feeder or stream or is likely to be washed into the feeder or stream the washing of any ore or coal or other waste product from any mine, waste liquor from any tannery, or solid or liquid waste from any industry whatsoever, except under such conditions as may be approved by the District Health Director.

(Code 1993, § 29-261; Code 2004, § 106-661; Code 2015, § 28-742)

Sec. 28-743. Unlawful discharge of prohibited substances into wastewater system.

(a) The term "firm," as used in this section, includes, but is not limited to, major garages, automobile repair shops, automobile service stations, cleaning and dyeing plants or any other establishment used for similar purposes.

(b) It shall be unlawful for any firm or person to discharge any prohibited substance into any sewer in the City. Neither shall any firm nor person deposit any prohibited substance upon any street or alley drained by the wastewater system of the City.

(c) For the purpose of complying with State or Federal laws or regulations, if the City is required to obtain a permit or take corrective action as a result, in whole or in part, of a prohibited discharge by any firm or person, the Director, the Director of Public Works, the Chief of Fire and Emergency Services, the District Health Director, or any of them shall give notice to the person or firm responsible for such prohibited discharge requiring that, within 30 days or such other reasonable time as the Director or any of them shall specify, the responsible person or firm shall remove the prohibited substance from and/or prohibit the entry of the prohibited substance into the wastewater system.

(d) The notice shall be deemed to have been delivered when sent by certified mail, postage prepaid, to the owner of the property at the best address obtainable from public records. Should an owner so notified fail to take necessary and adequate corrective action within the time period specified, the Directors or any of them shall plug the connection to the wastewater system or take action to prevent the prohibited substance from running off the property. The cost of any such action shall be billed to and payable by such owner.

(e) The Director is authorized to order any firm or person responsible for an actual or threatened discharge of a prohibited substance to the wastewater system to abate the discharge or the conditions resulting in the threatened discharge; to contain, remove, and properly dispose of the prohibited substance; and to take any other corrective actions determined by the Director to be reasonably necessary under the circumstances to protect the public health, safety, or welfare and the environment and the wastewater system. It shall be unlawful for any party receiving an order pursuant to this subsection to fail to comply with the order.

(Code 1993, § 29-311; Code 2004, § 106-662; Code 2015, § 28-743)

Sec. 28-744. Strong wastewater generally.

(a) The City will provide wastewater service to users having strong wastewater, provided the wastewater is amenable to treatment and is not of a nature otherwise prohibited, all in accordance with this article.

(b) Wastes containing more than 275 milligrams per liter of suspended solids or more than 250 milligrams per liter of BOD or other characteristics in concentrations not normally found in sanitary sewage shall be considered

strong wastewaters.

(Code 1993, § 29-328; Code 2004, § 106-663; Code 2015, § 28-744)

Sec. 28-745. Control of strong wastewater discharges.

(a) Notwithstanding Section 28-744, if any wastewater is discharged or is proposed to be discharged within or without the corporate City limits to the public wastewater system, which wastewater, in the judgment of the Director, may have a deleterious effect upon the wastewater works, processes, equipment or receiving waters or which otherwise creates a hazard to health or constitutes a public nuisance, the Director may:

(1) Reject the wastewater;

(2) Require or permit pretreatment to an acceptable condition for discharge to the public wastewater system;

(3) Require control over the quantities and rates of discharge; or

(4) Permit the user to provide full treatment of the wastewater and discharge the effluent to an adjacent receiving waterway.

(b) If the Director permits the pretreatment or equalization or full treatment of wastewater, the design and installation of the plants and equipment shall be subject to the review and approval of the Director and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1993, § 29-329; Code 2004, § 106-664; Code 2015, § 28-745)

Sec. 28-746. Control manholes.

(a) When required by the Director, the owner of any property serviced by a building sewer carrying strong wastewater shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Director. The manhole, together with such meters and other appurtenances, shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

(b) The owner of property served by more than one building sewer may, at the owner's option, revise the building sewers to connect to the wastewater system through a single building sewer. One control manhole shall then be constructed, when required, on the single connection.

(Code 1993, § 29-330; Code 2004, § 106-665; Code 2015, § 28-746)

Sec. 28-747. Users having strong wastewaters not connected to wastewater system.

(a) Users having strong wastewaters not connected to the wastewater system shall construct building sewers at their own expense and apply for sewer connections and become connected to the wastewater system or shall advise the Director that separate wastewater treatment and disposal facilities will be provided at the expense of the user. The information submitted to the Director shall include information on the kinds of treatment works proposed and a time schedule for the construction of the necessary facilities.

(b) The design, construction and operation of any private wastewater disposal facilities and the time schedule for the construction of such facilities shall be subject to the approval of the Director of Public Works.

(c) Such users having more than one point of waste discharge shall construct building sewers, at their own expense, to combine the waste discharges into the minimum practical number of connections.

(d) When required by the Director, the owner of any property proposed to be connected to the wastewater system shall construct on each new building sewer a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Each manhole shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Director. Each manhole shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

(Code 1993, § 29-331; Code 2004, § 106-666; Code 2015, § 28-747)

Sec. 28-748. Program for sampling and analysis of wastewater.

(a) All measurements, tests and analyses of the characteristics of waters and wastes shall be determined at the control manhole provided or upon suitable samples taken at such control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the wastewater works and to determine the existence of hazards to health and property.

(b) Determinations of the concentrations of BOD and suspended solids and other waste characteristics shall be made in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, prepared by the American Public Health Association, the American Water Works Association and the Water Environment Federation or in accordance with such other recognized and analytical methods acceptable to the State Water Control Board and the State Department of Health.

(c) Waste discharges of users having strong wastewaters shall be sampled by the Director once each calendar quarter or such other period as the Director may determine for the length of time, as determined by the Director, to be necessary to establish the characteristics of the wastewaters.

(d) The results of the analysis of the quarterly samples shall be used to determine the concentrations of suspended solids or BOD for the computation of charges.

(Code 1993, § 29-332; Code 2004, § 106-667; Code 2015, § 28-748)

Sec. 28-749. Permit required to place materials on or near open sewers or watercourses used as sewers.

It shall be unlawful for any person to place, store or deposit, on, along or within 30 feet of the sides of any open sewer or watercourse used as a sewer within the City, any lumber, waste building material, excavated material or other material or debris or otherwise make such deposit in a place where such material is likely to be washed or carried into such sewer in times of flood or overflow, without first obtaining from the Commissioner of Buildings a permit to do so, after the Commissioner of Buildings shall have approved a plan by which such material shall be secured so that it may not be washed into such sewer in times of flood or overflow along the banks of such sewer or watercourse.

(Code 1993, § 29-312; Code 2004, § 106-668; Code 2015, § 28-749)

Sec. 28-750. Regulations for chemical and other characteristics of waste.

(a) When the City is required, for the purpose of complying with either Federal or State laws or regulations which may have been or may be promulgated in pursuance to such Federal or State laws, to furnish to either the United States or to the Commonwealth, or to both, information regarding the chemical and other characteristics of waste discharged into the wastewater system of the City, whether discharged directly or indirectly, the Directors of the Departments of Public Utilities and Public Works shall jointly promulgate regulations regarding persons discharging waste from any source, whether discharged directly or indirectly into the wastewater system of the City, requiring such persons to determine and to furnish to the City the information regarding the waste required by Federal or State law or by Federal or State regulations. The regulations promulgated by the Directors pursuant to this section may incorporate in whole or in relevant part any Federal or State law or Federal or State regulations, and such regulations promulgated by the Directors may make further provision for the orderly and expeditious collection and furnishing of the information so required. Regulations promulgated pursuant to this section shall be made in accordance with Section 28-26(a). Any such regulations shall be available for public inspection in both the offices of the Director of Public Utilities and the Director of Public Works. Such regulations shall be promulgated pursuant to a single notice published as required by law informing the public of the hearing upon any proposed regulation and the adoption and filing of any regulation which may be promulgated pursuant to this section.

(b) Violations of regulations promulgated pursuant to this section shall constitute a misdemeanor, and, upon conviction for violation of such regulations punishment of a person convicted, shall be as provided in Section 1-16.

(Code 1993, § 29-318; Code 2004, § 106-670; Code 2015, § 28-750)

Secs. 28-751—28-768. Reserved.

DIVISION 5. PRETREATMENT

Sec. 28-769. Incorporations by reference.

(a) Where this division incorporates provisions of State or Federal law by reference, the City determines that State or Federal law requires the substance of those provisions, respectively, and that the City is required to enact provisions that are no less stringent or no less extensive in scope of coverage than such provisions incorporated by reference. If there is a conflict among any of the standards, the most stringent standard shall apply, unless the conflict can otherwise be resolved without violating an applicable law or regulation.

(b) All pretreatment regulation shall be in accordance with 40 CFR 400—699.

(Code 2004, § 106-691; Code 2015, § 28-769)

Sec. 28-770. Required for discharge into wastewater system; rules; permits.

(a) The term "industrial user," for purposes of this section, is defined to include any nondomestic source.

(b) It shall be unlawful for any industrial user, located within or without the corporate City limits, to discharge or cause to be discharged, in any manner, directly or indirectly, into the sewers of the City, whether located within or without the corporate limits thereof, any liquid or matter which:

(1) Is not susceptible to treatment by the City's wastewater system;

(2) Passes through the City's wastewater system;

(3) Interferes with the normal operation of the City's wastewater system;

(4) Would render the operation of the City's wastewater system unlawful;

(5) Would overcharge or could overcharge the sewers or would harm or could harm the wastewater system;

(6) Would interfere or could interfere with the use, reuse, or recycling of products, byproducts, or waste materials resulting from the operation of the wastewater system and including, but not limited to, sludge; or

(7) Would be detrimental or could be detrimental to the public health, safety or welfare, the environment, or navigation; would interfere or could interfere with the beneficial uses of receiving waters; or would result or could result in the exceeding of any applicable State water quality standard, sludge standard, or national ambient air quality standard.

(c) It shall be unlawful for any industrial user, located within or without the corporate City limits, to discharge or cause to be discharged, in any manner, directly or indirectly, into the sewers of the City, whether located within or without the corporate limits thereof, any liquid or matter without a wastewater discharge permit issued by the Director if such discharges require control or treatment by the industrial user in order to:

(1) Make or render the discharges susceptible to treatment by the City's wastewater system;

(2) Prevent the pass through of such discharges through the City's wastewater system;

(3) Prevent interference by such discharges with the normal operation of the City's wastewater system; or

(4) Continue the lawful operation of the City's wastewater system.

(d) In order to implement and enforce this wastewater discharge permit requirement, the Director is authorized and empowered to promulgate rules and regulations as authorized in and in the manner provided in Section 28-26 which shall then have the force and effect of law. In establishing rules and regulations, the Director may incorporate, in whole or in part, any Federal or State law or regulations enacted pursuant to the Federal Water Pollution Control Act, more commonly referred to as the Clean Water Act, 33 USC 1251 et seq. The Director is further authorized and empowered to require recordkeeping, reporting, monitoring and installation of necessary technological equipment; and to make and carry out inspections, monitoring and surveillance.

(e) The Director shall issue a wastewater discharge permit to such industrial user only when such person has complied with the applicable effluent standards and rules and regulations promulgated pursuant to this section or agrees to comply with the effluent standards and schedules issued by the Director as well as the rules and regulations promulgated pursuant to this section. The wastewater discharge permit, once issued by the Director, may be revoked when:

(1) The industrial user is no longer in compliance with either the applicable effluent standards or the rules and regulations promulgated pursuant to this section;

(2) The discharges by the industrial user reasonably threaten the health or welfare of the public;

(3) The discharges by the industrial user reasonably present a danger to the environment; or

(4) The discharges by the industrial user interfere with the normal operation of the City's wastewater system or threaten the lawful operation of the City's wastewater system.

(f) The Director shall give written notice to the offending party of any violation of this section or rules and regulations promulgated pursuant to this section at least five days before commencing redress or remedial action or criminal prosecution, unless the discharge poses an immediate threat to the health or welfare of the public, the environment, or the wastewater system, in which event the Director may proceed with immediate corrective action. A violation of this section or the rules and regulations promulgated pursuant to this section shall constitute a misdemeanor and shall be punishable as provided in Section 1-16 as a Class 1 misdemeanor. Additionally, to remedy a violation, the Director may:

(1) Seek equitable relief in a court of law;

(2) Disconnect all wastewater connections of the industrial user from City-owned sewer lines and plug the lines used by such industrial user to discharge any liquid or matter in violation of this section or its rules and regulations; or

(3) Discontinue water service if it is provided by the City to the industrial user.

(g) If any liquid or matter is discharged by any industrial user in violation of this section and results in any damage to any sewer or any part of the City's wastewater system or affects the nature or quality of the sludge from the City's wastewater treatment plant so as to increase the cost of the safe removal and disposal of the sludge, the City may recover from the industrial user the cost of repairs or the increased cost of removal incurred by the City.

(Code 1993, § 29-316; Code 2004, § 106-692; Code 2015, § 28-770)

Sec. 28-771. Discharge of prohibited, industrial or other wastes into sewers.

Notwithstanding Section 28-770, it shall be unlawful for the owner or operator of any industrial plant or enterprise, located within or without the corporate City limits, to discharge or cause to be discharged, in any manner, directly or indirectly, into the sewers of the City, whether located within or without the corporate limits thereof, any prohibited discharge as defined in Section 28-577 or any water used in industrial processes or any industrial waste or liquid or other matter which injures or is likely to injure the sewers; overcharges or is likely to overcharge the sewers; or is detrimental or is likely to become detrimental to navigation, public health, safety or welfare.

(Code 1993, § 29-314; Code 2004, § 106-693; Code 2015, § 28-771)

Sec. 28-772. Specific prohibited discharges.

(a) The term "industrial user," for purposes of this section, is defined to include any nondomestic source.

(b) No industrial user of the City's wastewater system shall discharge or cause to be discharged into such system the following liquids or materials:

(1) Any material which creates or may create a fire or explosion hazard at any point in the City's wastewater system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius, using test methods specified in 40 CFR 261.21.

(2) Any material which has a pH below 5.0, unless specifically approved by the Director based on a finding that the publicly owned treatment works will accommodate such material, or which would cause corrosive structural damage to any part of the wastewater system.

(3) Any solids or viscous matter, including, but not limited to, oil and grease, in an amount which may cause obstruction or interference in the wastewater system.

(4) Any material, including oxygen demanding matter, that, by its constituents, character, volume, strength or any combination thereof, may cause or contribute to an interference with the normal operation of the City's wastewater system.

(5) Heat in an amount that would inhibit biological activity or cause wastewater treatment plant influent temperature to exceed 40 degrees Celsius (104 degrees Fahrenheit).

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that would or could cause interference or pass through.

(7) Matter that would or could result in the presence of toxic gases, vapors, or fumes at any point in the wastewater system in a quantity or concentration that could cause worker health and safety problems.

(8) Any radioactive waste or isotopes of such half-life or concentration that does not comply with regulations or permits issued by the appropriate authority having control over their use or which may cause damage or hazard to the wastewater system or personnel operation of the wastewater system or pass through the system into the environment.

(9) Any trucked or hauled matter, except at discharge points designated by the Director.

(Code 1993, § 29-315; Code 2004, § 106-694; Code 2015, § 28-772)

Sec. 28-773. Pretreatment permit requirements.

(a) The following users are required to have a pretreatment permit pursuant to this division:

(1) Any user subject to categorical pretreatment standards;

(2) Any user that:

a. Discharges an average of 25,000 gallons of process wastewater per day, excluding sanitary, noncontact cooling water, and boiler blowdown wastewater;

b. Contributes a process wastestream making up five percent or more of the average dry weather hydraulic or organic capacity of the wastewater system; or

c. The Director determines has a reasonable potential for adversely affecting the wastewater system's operations or violating any pretreatment standard or requirement.

(3) Any user that discharges hauled wastes to the wastewater system; or

(4) Any user that, although not a significant industrial user, the Director determines discharges or may discharge wastewaters which, either individually or cumulatively with other users, require control of the discharge of wastewaters to the wastewater system for wastewater system operation, maintenance, or other purposes; or require cataloging, monitoring or sampling and analyses to ensure their compliance with this division.

(b) It shall be unlawful for any user required to have a pretreatment permit to discharge, cause to be discharged, or allow to be discharged in any manner, directly or indirectly, into the wastewater system, any liquid or matter without a pretreatment permit issued by the Director.

(c) The pretreatment permit shall contain any additional conditions determined by the Director to be required for compliance with this article, any rules and regulations promulgated pursuant to Section 28-26, any Federal or State law or regulations enacted pursuant to the Clean Water Act or the State Water Control Law, Code of Virginia, § 62.1-44.2 et seq. If a conflict occurs between any permit condition, any other requirement of this article, any rule or regulation adopted pursuant to this article, or any applicable Federal or State requirement, the more stringent provision shall prevail and shall be enforceable under this article. The Director is further authorized and empowered to include as permit requirements recordkeeping; reporting; compliance with specific effluent standards; monitoring; sampling; analysis; installation of monitoring facilities; installation and use of other technological equipment necessary for compliance with this article; and the use of best management practices for the reasonable reduction of the volume, strength and toxicity of wastes discharged to the wastewater system.

(Code 2004, § 106-695; Code 2015, § 28-773)

Sec. 28-774. Pretreatment permit application and issuance.

(a) The Director shall issue a pretreatment permit to a user pursuant to this division only when the user has:

(1) Submitted to the Director a completed pretreatment permit application, signed by an owner or responsible

corporate officer certifying the accuracy of the information submitted;

(2) Completed and submitted to the Director a baseline monitoring report (BMR) if the user is a categorical user as defined pursuant to the categorical pretreatment standards or if the Director has requested submission of a BMR;

(3) Agreed to comply with the effluent standards and schedules established by the Director as well as the rules and regulations promulgated pursuant to this article; and

(4) Paid any applicable pretreatment permit fee set forth in this division.

(b) The pretreatment permit shall be valid for a period of time established by the Director, but such time shall not exceed five years.

(c) The Director may establish by rule a group pretreatment permit with special requirements for any group of users that, collectively, in the Director's judgment, have adequately similar discharge characteristics so that a group pretreatment permit with uniform limitations and conditions will fulfill the requirements of this article. The Director may establish, as a condition of the group permit requirements for permit applications, sampling and analysis, controls, inspections, and reporting and such other requirements as may be necessary to comply with this article. Notwithstanding the foregoing, the Director may modify the group pretreatment permit requirements as they may apply to any individual user in a group as necessary to require compliance with this division or may require that any user apply for and obtain an individual pretreatment permit pursuant to this section.

(Code 2004, § 106-696; Code 2015, § 28-774)

Sec. 28-775. Permit required to discharge prohibited, industrial or other wastes into sewers.

(a) The owner or operator of any industrial plant or enterprise located within or without the corporate City limits, before discharging any water used in industrial processes, any industrial waste or liquid or other matter, in any manner, directly or indirectly, into the wastewater system of the City, whether located within or without the corporate limits thereof, shall apply to the Director of Public Works for a permit to do so and shall furnish to the Director such information in such manner and form as the Director may require relative thereto. The Director shall grant the permit when satisfied that the water, industrial waste or liquid or other matter will not injure or is not likely to injure the wastewater system; will not overcharge or is not likely to overcharge the wastewater system; and will not be detrimental or is not likely to become detrimental to navigation or public health, safety or welfare.

(b) Any person aggrieved by the refusal of the Director of Public Works to issue the permit referred to in this section shall have the right of appeal to the City Council from the decision of the Director.

(Code 1993, § 29-317; Code 2004, § 106-697; Code 2015, § 28-775)

Sec. 28-776. Pretreatment permit revocation and modification.

The Director may revoke or modify a pretreatment permit issued pursuant to this division when:

(1) The user violates or no longer is in compliance with the requirements of this article, including, but not limited to, applicable effluent standards, the rules and regulations promulgated pursuant to this division, any order issued pursuant to this division, or the user's pretreatment permit;

(2) The user's discharge threatens the public health, safety or welfare, including, but not limited to, the health, safety or welfare of City employees;

(3) The user's discharge presents a danger to the environment; or

(4) The user's discharge interferes with the normal operation of the wastewater system or threatens the lawful operation of the wastewater system.

(Code 2004, § 106-698; Code 2015, § 28-776)

Sec. 28-777. Notice of violation; remedies.

The Director shall give written notice of violation of this division to the offending party at least five days before commencing redress or remedial action or criminal prosecution unless an immediate threat exists to the public health, safety or welfare; the environment; or the wastewater system, in which event the Director may

proceed with immediate corrective action. In order to remedy a violation, the Director may:

(1) Order the user to remedy the violation and to take such actions necessary to comply with the requirements of this article, the rules and regulations promulgated pursuant to this division, an order issued pursuant to this division, or an applicable pretreatment permit. The Director may include a compliance schedule as part of the order. The Director, in the Director's discretion, may issue the order unilaterally or with the user's consent;

(2) Seek equitable relief in a civil court of law;

(3) Disconnect, at the user's expense, any or all wastewater connections of the user from City-owned sewers and plug the sewers used by the user to discharge any liquid or matter giving rise to the violation;

(4) Discontinue water service if the City provides it to the user;

(5) Initiate criminal enforcement pursuant to Section 28-581 or other legal authority; or

(6) Take any other appropriate action to remedy the violation.

(Code 2004, § 106-699; Code 2015, § 28-777)

Sec. 28-778. Opportunity for hearing.

The Director shall provide the affected user an opportunity for a hearing whenever the director proposes to revoke or to modify a pretreatment permit, to issue a unilateral order, to disconnect a wastewater connection or to plug a sewer line, or to discontinue water service pursuant to this division. The Director shall provide the opportunity for a hearing prior to taking the action proposed by the Director unless an immediate threat exists to the public health, safety or welfare; the environment; or the wastewater system, in which event the Director may proceed with immediate action and provide an opportunity for a hearing as soon as is practicable. Unless a user requests a hearing within a reasonable time established by the Director, the user shall be deemed to have waived the opportunity for a hearing.

(Code 2004, § 106-700; Code 2015, § 28-778)

Sec. 28-779. Recovery of costs.

The City may recover from any user all direct and indirect costs incurred by the City as a result of any damage to the wastewater system by such user or any violation by the user of this article or a pretreatment permit. Costs recoverable by the City include, but are not limited to, costs for repair of the City wastewater system, increased costs of operation and maintenance of the wastewater system, increased costs of sludge management, increased costs of compliance with legal requirements applicable to the City's wastewater system, costs of increased monitoring and administration, replacement costs of goods and services provided by the City, amounts expended to private contractors, administrative costs and overhead, and any civil or administrative penalties incurred by the City. If the user refuses to pay to the City the City's costs pursuant to this section or Section 28-682 after presentment of a bill therefor with reasonable substantiation, the City may recover such costs through a civil action in the circuit court for the City, and the City may also recover its reasonable attorney's fees and costs through such action. Any recovery of costs pursuant to Section 28-749 shall be in addition to penalties that may be assessed pursuant to the other sections of this article.

(Code 2004, § 106-701; Code 2015, § 28-779)

Sec. 28-780. Rules and regulations.

In order to implement and enforce the requirements of this article, the Director is authorized and empowered to promulgate rules and regulations as authorized by and in the manner provided in Section 28-26, which then shall have the force and effect of law. In establishing rules and regulations, the Director may incorporate, in whole or in part, any Federal or State law or regulations enacted pursuant to the Clean Water Act or the State Water Control Law, Code of Virginia, § 62.1-44.2 et seq. If a conflict occurs between any requirement of this article or any rule or regulation adopted pursuant to this division and any applicable Federal or State requirement, the more stringent provision shall prevail and shall be enforceable under this article. The Director is further authorized and empowered to require recordkeeping, reporting, compliance with specific effluent standards, monitoring, sampling, analysis, and installation of monitoring facilities; to require the installation and use of other necessary technological

equipment; to require the use of best management practices for the reasonable reduction of the volume, strength, and toxicity of wastes discharged to the wastewater system; and to make and carry out inspections, monitoring, sampling, analysis, and surveillance.

(Code 2004, § 106-702; Code 2015, § 28-780)

Secs. 28-781—28-798. Reserved.

DIVISION 6. HAULED WASTE*

***Cross reference—**Environment, Ch. 11.

Sec. 28-799. Discharge of hauled materials into designated septage receiving stations by contractors.

The waste material taken from septic tanks or other approved sources may be disposed of by discharging the waste materials into such septage receiving stations as may be designated by the Director. Only a contractor permitted by the City to clean and pump septic tanks shall be allowed to discharge waste material into a septage receiving station. For each load of waste material discharged into such septage receiving stations, there shall be imposed and shall be paid to the City a service charge of $0.115 per gallon. There shall be a fee of $68.64 for discharging a fractional part of a load in excess of 1,000 gallons.

(Code 1993, § 29-298; Code 2004, § 106-721; Code 2015, § 28-799; Ord. No. 2008-98-126, §§ 2, 4, 5-27-2008; Ord. No. 2009-59-82, § 1, 5-26-2009; Ord. No. 2010-86-99, § 1, 5-24-2010; Ord. No. 2011-75-98, § 1, 5-23-2011; Ord. No. 2012-49-64, § 1, 5-14-2012; Ord. No. 2013-62-91, § 2, 5-28-2013; Ord. No. 2014-44-102, § 1, 5-27-2014; Ord. No. 2015-62-93, § 1, 5-15-2015; Ord. No. 2016-069, § 1, 5-13-2016; Ord. No. 2017-061, § 1, 5-15-2017; Ord. No. 2018-093, § 1, 5-14-2018; Ord. No. 2019-070, § 1, 5-13-2019)

Sec. 28-800. Method of payment by contractor of service charge.

Each contractor discharging waste into a septage receiving station designated by the Director shall file on or before the 15th day of each month, a certified or attested statement of the number of gallons or loads per day, as applicable, of waste material so disposed of during the preceding calendar month.

(Code 1993, § 29-300; Code 2004, § 106-722; Code 2015, § 28-800; Ord. No. 2008-98-126, § 2, 5-27-2008)

Sec. 28-801. Penalties for contractor to fail to pay service charge.

It shall be a Class 1 misdemeanor for any contractor authorized to deposit waste material from a septic tank in a designated septage receiving station to dispose of waste material from a septic tank by discharging the waste material in a septage receiving station without paying the service charge as prescribed in Section 28-799. In addition, the Director may withdraw the permit and prohibit any contractor convicted under this section from the future discharging of waste material from a septic tank in a designated septage receiving station within the City.

(Code 1993, § 29-301; Code 2004, § 106-723; Code 2015, § 28-801; Ord. No. 2008-98-126, § 2, 5-27-2008)

Sec. 28-802. Discharge of septic tank waste by unauthorized person.

It shall be a Class 1 misdemeanor for any person not authorized pursuant to Section 28-799 to discharge waste material from a septic tank into a septage receiving station or at any other place in the City.

(Code 1993, § 29-302; Code 2004, § 106-724; Code 2015, § 28-802; Ord. No. 2008-98-126, § 2, 5-27-2008)

Sec. 28-803. Discharge of hauled waste into wastewater system.

(a) Hauled waste, whether generated or originating within or outside of the City, may be disposed of in the City wastewater system only if authorized by a pretreatment permit issued by the City pursuant to Division 5 of this article.

(b) Hauled waste material permitted for disposal may be discharged only into such receiving facilities as are designated in writing by the Director.

(c) No person shall discharge to the wastewater system any hauled material that constitutes a hazardous waste as that term is defined in 40 CFR 261 or 9VAC20-60-261, any hazardous substance without the specific authorization of the Director, or any prohibited substance as otherwise specified in this article. For the purposes of this subsection, the term "hazardous substance" refers to a chemical substance which is manufactured or formulated

for commercial or manufacturing use which consists of the commercially pure grade of the chemical substance, any technical grades of the chemical substance that are produced or marketed, and all formulations in which the chemical substance is the sole active ingredient or any used or spent formulations thereof. It does not refer to a manufacturing or process waste that contains one or more hazardous substances. However, nothing in this subsection shall otherwise limit the sections of this article prohibiting or restricting the discharge of materials to the wastewater system, this division, or the discretion of the Director pursuant to this article to prohibit the discharge of hauled waste to the wastewater system.

(Code 2004, § 106-725; Code 2015, § 28-803)

Sec. 28-804. Additional compliance requirements.

(a) Any person discharging hauled waste to the wastewater system shall:

(1) Comply with all procedures for discharging, for cleanliness, and for general sanitary operation on City property as prescribed by the Director.

(2) Comply with all applicable City, State and Federal requirements, including, but not limited to, the requirement for a sewage handling permit issued by the State Health Department pursuant to 12VAC5-610-240.B and 12VAC5-610-380 et seq.

(b) Any person applying for a pretreatment permit to discharge hauled waste that will consist of any wastes other than septage removed from residential septic tanks or portable toilets shall file with the Department an application at least 30 days prior to the time such person wishes to discharge hauled wastes or such other time as may be specified by the Director. The application shall be in the form and shall include such information as prescribed by the Director. Such application shall also include a certification in a form prescribed by the Director, signed by an owner or responsible corporate officer of the entity proposing the discharge of hauled waste, confirming the accuracy of the information submitted.

(Code 2004, § 106-727; Code 2015, § 28-804)

Sec. 28-805. Discharge manifest; method of payment of service charge.

Each person discharging hauled waste into wastewater receiving facilities designated by the Director shall file with the Department a certified manifest for each load discharged within the time period specified by the Director. The manifest shall be in the form and shall include such information as prescribed by the Director and, without limitation, shall include the type, characteristics, source, and volume of the discharged waste. The Director may use the submitted manifests to determine the proper billing for the discharge of hauled waste material authorized by Section 28-803. The records of any party discharging wastes to designated wastewater receiving facilities as authorized by Sections 28-773 and 28-804 shall be subject to audit by the City Auditor.

(Code 2004, § 106-728; Code 2015, § 28-805)

Sec. 28-806. Discharge of hauled waste by person previously convicted.

It shall be unlawful for any person convicted of any violation of this division to discharge any hauled waste material into the wastewater system, and any such person shall be ineligible for a pretreatment permit under this article.

(Code 2004, § 106-729; Code 2015, § 28-806)

Secs. 28-807—28-835. Reserved.

ARTICLE VII. ELECTRIC UTILITIES*

***Charter reference**—Authority of City to own, maintain and operate electric plants with the transmission lines incident thereto, § 2.03(n); authority of City to issue permits for maintenance and operation of poles, wires and cables, § 2.04(d); Department of Public Utilities, Ch. 13.

DIVISION 1. GENERALLY

Sec. 28-836. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them

in this section, except where the context clearly indicates a different meaning:

Gain means the location of an electrical wire on an electrical streetlight pole.

Underground district means an area in the City where no overhead streetlights or wires or poles are allowed installed above the grade line.

(Code 1993, § 29-376; Code 2004, § 106-761; Code 2015, § 28-836)

Cross reference—Definitions generally, § 1-2.

Sec. 28-837. Records of facilities.

The Director shall keep on file suitable records showing electric wiring, poles, streetlights and other facilities owned, rented, maintained or used by the electric utility, including, but not limited to, showing of privately owned facilities sited on the electric utility's poles and other facilities.

(Code 1993, § 29-378; Code 2004, § 106-762; Code 2015, § 28-837; Ord. No 2019-310, § 1(28-837), 12-9-2019)

Sec. 28-838. Construction and maintenance of plants, substations, lines and other appurtenances.

The Director shall construct and maintain plants, substations, transmission lines, distribution lines, street lighting lines, cables, conduits, manholes and other electrical appurtenances necessary for the operation of the electric utility, as funds for such purposes are made available.

(Code 1993, § 29-379; Code 2004, § 106-763; Code 2015, § 28-838)

Sec. 28-839. Sale of service; rates.

The Director is authorized to sell electric power and street lighting service to consumers within or without the corporate City limits. The rates charged shall be fixed by the Director as prescribed in Section 13.06(a) of the Charter.

(Code 1993, § 29-380; Code 2004, § 106-764; Code 2015, § 28-839)

Secs. 28-840—28-856. Reserved.

DIVISION 2. PLACEMENT AND USE OF POLES, WIRES AND CONDUITS*

***State law reference—**Prohibition against public utilities using streets of City without consent of corporate authorities, Code of Virginia, § 15.2-2017.

Sec. 28-857. Authority required for work.

Persons, except City departments, and except as otherwise provided in Article VII, Division 3 of this chapter, desiring to install, construct, maintain, alter or use poles, wires, cables, conduits, manholes, transformers or any appurtenances using electricity in, over or under the streets of the City shall first obtain authority to do so from the City Council.

(Code 1993, § 29-391; Code 2004, § 106-786; Code 2015, § 28-857; Ord. No. 2019-310, § 1(28-857), 12-9-2019)

Sec. 28-858. Disturbing surface of streets; permit; restoration of surface.

If the work proposed pursuant to Section 28-857 requires disturbing the surface of streets, a permit to work in the streets must be obtained from the Director of Public Works before any such work is begun. Whenever the surface of the street is disturbed, it shall be restored by the Department of Public Works or by others on approval by the Director of Public Works, and all expense incident to the restoration shall be borne by the person who obtains the permit to work in the streets.

(Code 1993, § 29-392; Code 2004, § 106-787; Code 2015, § 28-858)

Sec. 28-859. Standards for maintenance of work.

All electrical work in, over or under the City streets shall be constructed, operated and maintained in accordance with the rules and regulations of the City Electrical Code, and the Director shall have the power to make such special rules as shall be needed to carry out the requirements of this section and Sections 28-71 and 28-860.

(Code 1993, § 29-393; Code 2004, § 106-788; Code 2015, § 28-859)

Sec. 28-860. Maintenance of work and equipment; inspection; authority of Director to require alteration or removal.

All electrical work and equipment in, over or under the City streets shall be maintained in good condition. The Director shall, at all times, have power to examine and inspect such work and equipment. When any of such work or equipment shall need changing in size or location, replacing, being made safe or put in proper condition or appearance, the owner of such work or equipment shall immediately proceed to make the alterations or removals which the Director shall designate in writing, and all expense incidental to any such changes required shall be borne by the owner of such work or equipment.

(Code 1993, § 29-394; Code 2004, § 106-789; Code 2015, § 28-860)

Sec. 28-861. Underground districts.

(a) No overhead wires or poles for the support of wires, other than wires supporting traffic lights and streetlights using electricity, shall be erected or maintained within the following district:

District 1.

Beginning at the point of intersection of the north line of Broad Street and the west line of Adams Street; thence extending eastwardly along the north line of Broad Street to the point of its intersection with the east line of 14th Street, thence extending southwardly along the east line of 14th Street to the point of its intersection with the south line of Cary Street; thence extending westwardly along the south line of Cary Street to the point of its intersection with the west line of Seventh Street; thence extending northwardly along the west line of Seventh Street to the point of its intersection with the south line of Franklin Street; thence extending westwardly along the south line of Franklin Street to the point of its intersection with the west line of Adams Street; thence extending northwardly along the west line of Adams Street to its intersection with the north line of Broad Street, the point of beginning.

Distribution poles may be erected in alleys in District 1 for the purpose of making connections with service wires or cables using electric current of not more than 600 volts to buildings within the same block. Such connections may be made with insulated wires or cables or carry approved weatherproof coverings suspended overhead between the distribution pole and the buildings or other service connection supports, the connecting wires or cables to be supplied with current from an underground system by a cable in a protecting conduit attached to the distribution pole.

(b) No overhead wires or poles for the support of wires, other than wires supporting traffic lights and streetlights using electricity, shall be erected after November 15, 1974, or thereafter maintained within the following district:

District 2.

Beginning at the point of intersection of the north line of Broad Street and the west line of Fifth Street; thence extending northwardly along the west line of Fifth Street to the point of its intersection with the north line of Leigh Street; thence extending eastwardly along the north line of Leigh Street to the point of its intersection with the east line of Tenth Street; thence extending southwardly along the east line of Tenth Street to the point of its intersection with the north line of Broad Street; thence extending westwardly along the north line of Broad Street to the point of its intersection with the west line of Fifth Street, the point of beginning.

(c) In the following districts all new connections shall be installed underground. Overhead distribution facilities shall be permitted to serve existing premises or poles:

District 3.

Beginning at the point of intersection of the north line of Broad Street and the west line of Adams Street; thence extending northwardly along the west line of Adams Street to the point of its intersection with the south line of Clay Street; thence extending eastwardly along the south line of Clay Street to the point of its intersection with the west line of Third Street; thence extending northwardly along the west line of Third Street to the point of its intersection with the southern right-of-way of the Richmond-Petersburg Turnpike; thence extending eastwardly along the right-of-way of the Richmond-Petersburg Turnpike to the point of its intersection with the east line of Eighth Street; thence extending southwardly along the east line of Eighth

Street to the point of its intersection with the north line of Leigh Street; thence extending westwardly along the north line of Leigh Street to the point of its intersection with the west line of Fifth Street; thence extending southwardly along the west line of Fifth Street to the point of its intersection with the north line of Broad Street; thence extending westwardly along the north line of Broad Street to the point of its intersection with the west line of Adams Street, the point of beginning.

District 4.

Beginning at the point of intersection of the north line of Broad Street and the east line of Tenth Street; thence extending northwardly along the east line of Tenth Street to the north line of Leigh Street; thence extending westwardly along the north line of Leigh Street to the east line of Eighth Street; thence extending northwardly along the east line of Eighth Street to the point of its intersection with the southern right-of-way of the Richmond-Petersburg Turnpike; thence extending eastwardly and southwardly along the right-of-way line of the Richmond-Petersburg Turnpike to the point of its intersection with the north line of Broad Street; thence extending westwardly along the north line of Broad Street to the point of its intersection with the east line of Tenth Street, the point of beginning.

(Code 1993, § 29-396; Code 2004, § 106-790; Code 2015, § 28-861)

Sec. 28-862. Joint use; board of arbitrators.

(a) Persons whom the City Council or the Director has authorized to install, construct, maintain, alter or use poles, wires, cables, conduits, manholes, transformers or any appurtenances using electricity in, over or under the City streets should, before applying for a permit to erect poles or install conduits, first determine the advisability of using existing poles or conduits. Persons may apply to the owners of existing poles and conduits in the streets for permission to install their wires or cables on the existing poles or conduits, and the owners of the poles and conduits shall grant this permission.

(b) The terms and conditions of such joint use may be agreed upon by the parties in interest. If the parties cannot agree upon satisfactory terms and conditions, the Director may require the owner of the poles and conduits to permit the desired joint use upon terms to be fixed by a Board of Arbitration, selected as follows: one person to be appointed by each of the parties in interest and the third to be selected by those appointees. If either appointment is not made within 15 days after notice from the Director or the third arbitrator is not selected within 30 days, the Director shall select disinterested persons to complete the Board of Arbitration. The decision of the majority of the Board of Arbitrators shall be final and binding upon the owner of the poles or conduits and the party desiring joint use. The Director shall have the authority to require the owner of the poles or conduits to allow the applicant for joint use to enter upon and use the equipment under such conditions as the Director may prescribe as soon as the applicant shall have appointed an arbitrator, but the person so entering shall do so under a contract and bond that such person will abide by and conform to the terms and conditions determined upon by the arbitrators. All expenses incidental to arbitration shall be divided equally between the parties in interest.

(c) The Director shall also have authority to require the owner or applicant to furnish and afford such protection to the property of the other as the Director may deem proper or necessary in order to allow the wires of each party to perform the purposes or functions for which they were intended.

(Code 1993, § 29-397; Code 2004, § 106-791; Code 2015, § 28-862; Ord. No. 2019-310, § 1(28-862), 12-9-2019)

Sec. 28-863. Fire alarm, police telegraph and traffic control systems.

Every person who owns or maintains poles, conduits, manholes or vaults using electricity in, over or under the City streets shall permit all the wires and cables needed for the fire alarm, police telegraph and traffic control systems to be placed on the poles or in the conduits, manholes or vaults without charge and in such positions as may be agreed upon or determined by arbitration in the same manner as provided for determining the conditions of joint use in Section 28-862.

(Code 1993, § 29-398; Code 2004, § 106-792; Code 2015, § 28-863)

Sec. 28-864. Statement of persons owning, maintaining or using poles, wires, cables or conductors.

Persons owning, maintaining or using poles installed on the City streets or owning, maintaining or using wires, cables or conductors installed in conduits under the City streets shall, on or before January 10 of each year, file with

the Director of Finance a sworn statement giving the number of poles owned, maintained or used and the number of miles of wires, cables, or conductors installed in conduits then owned, maintained or used by such persons, making the statement in such form as the Director of Finance may prescribe.

(Code 1993, § 29-399; Code 2004, § 106-793; Code 2015, § 28-864)

Sec. 28-865. Method of computing mileage.

In determining the miles of wires, cables or conductors referred to in Section 28-864, all such wires or conductors which are enclosed in a single sheath or jacket shall be considered as if it were a single cable, and all such wires or conductors which are considered part of a single circuit connected to a common supply shall be considered as if it were a single cable, provided that such wires, cables or conductors are installed in the same conduit.

(Code 1993, § 29-400; Code 2004, § 106-794; Code 2015, § 28-865)

Sec. 28-866. Pole fees.

Annually, on or before January 31, all persons owning, maintaining or using poles for electrical purposes in the City streets shall pay to the collector of City taxes a fee of $2.00 for each pole owned, maintained or used by them at the end of the previous calendar year with the following exceptions:

(1) Poles which support wires of the fire alarm, police telegraph and traffic control systems or any combination of these, but no other wires.

(2) Poles which support streetlights and which are supplied from underground cables and do not support any wires other than those covered by subsection (1) of this section.

(Code 1993, § 29-401; Code 2004, § 106-795; Code 2015, § 28-866)

Sec. 28-867. Fee for underground wires.

Annually, on or before January 31, all persons owning, maintaining or using wires, cables or conductors under the City streets shall pay to the collector of City taxes a fee of $10.00 for each mile of wires, cables or conductors owned, maintained or used by them at the end of the previous calendar year with the following exceptions: wires, cables and conductors used exclusively for the fire alarm, police telegraph and traffic control systems.

(Code 1993, § 29-402; Code 2004, § 106-796; Code 2015, § 28-867)

Sec. 28-868. Inspection of books and records.

The Director of Finance may have the books and records of the persons subject to this division examined whenever deemed desirable in order to determine the accuracy of the statements, accounts or records submitted for tax purposes.

(Code 1993, § 29-403; Code 2004, § 106-797; Code 2015, § 28-868)

Sec. 28-869. Identification of poles.

(a) Identification of the owner of electric poles shall appear on the curb or roadway side of the pole approximately eight feet above the ground.

(b) Identification of the users of poles other than the owner shall appear on the sidewalk side away from the curb or roadway approximately eight feet above the ground.

(Code 1993, § 29-404; Code 2004, § 106-798; Code 2015, § 28-869)

Sec. 28-870. Electrolytic corrosion.

(a) Every person maintaining or operating wires, cables and conductors for electrical purposes through the City streets shall construct, maintain and operate their respective lines and plants so as to prevent electrolytic corrosion or damage to any pipes, cables or other underground structures. Any person who shall permit or cause damage to the property of others by electrolytic corrosion or by stray currents or induced electric current shall be liable for and shall pay any resulting damages and the cost of all repairs or renewals that may be necessitated by such damage or injury and shall save harmless the City from all damages, whether direct or indirect.

(b) Every person maintaining or operating wires, cables and conductors through the City streets shall from time to time make such examinations, investigations and surveys as will determine whether any electric current is being carried on the underground structures of others by such person's operations. If harmful current is found to be present, such person shall immediately take such steps as are necessary to eliminate it.

(Code 1993, § 29-405; Code 2004, § 106-799; Code 2015, § 28-870)

Sec. 28-871. Requirements to do certain work upon street lighting system.

(a) All requests for work of installing, altering, removing or repairing electrical street lighting fixtures shall be done by agents or employees of the Department and approved by the Director at the cost and expense of the requesting party. Licensed electrical contractors authorized by the Director shall be allowed to perform work under this subsection only when they are not physically connecting into the City's electrical system and the system is not energized. Licensed electrical contractors shall:

(1) Submit plans and specifications to the Director for approval.

(2) Satisfy the Director as to the contractor's ability and qualifications to perform the work required.

(3) Submit a letter of authorization for the City to bill the requestor for any expenditures incurred to perform the requested work in excess of the required deposit.

(4) Submit the required deposit, which reflects an estimate of the cost required to perform the requested work. The cost shall include, but not be limited to, facilities which provide continued service to other existing street lighting facilities powered on that circuit.

(b) Connections and tie-ins to the City's electrical street lighting system shall be made only by electrical employees of the Department.

(c) All new or modified electrical street lighting facilities shall be inspected by a department employee, and no work shall be covered up until it has been inspected and approved.

(Code 2004, § 106-800; Code 2015, § 28-871)

Sec. 28-872. Festival outlets on street lighting poles.

Festival outlets on street lighting poles are solely for the purpose or use of the City for use with ornamental festival lighting. Such lighting shall be compatible with the existing system and approved by the Director. Connection to the festival outlets shall only be approved where spare capacity exists on a circuit. The festival outlet shall not overload a circuit and shall only be connected by City street lighting personnel. All connections to the festival outlets shall be equipped with the appropriate safety apparatus. All festival lighting shall be required to operate on the same current, voltage and photocell or timeframe as the existing street lighting system.

(Code 2004, § 106-801; Code 2015, § 28-872)

Sec. 28-873. Electrical connections to streetlight system.

No electrical connection may be made to the street lighting distribution system. No provisions will be made for an electrical receptor to be incorporated into a pole, light or other street lighting fixture for powering equipment, tools, apparatus, etc.

(Code 2004, § 106-802; Code 2015, § 28-873)

Sec. 28-874. Facilities in easements.

The Director shall determine when streetlight facilities shall be constructed in utility easements. The facilities shall be in utility easements only when, in the opinion of the Director, there is no other practical method of conveying public street lighting facilities in public streets, alleys and other public ways or places.

(Code 2004, § 106-803; Code 2015, § 28-874)

Sec. 28-875. Limitations of City's liability for failure to supply electricity or lighting.

The City shall not be liable for any injury to property or to a consumer or other person for damages which may result to such consumer or person or property thereof because of the failure of the supply of lighting from a streetlight, power supply to the streetlight distribution system, or street lighting serving premises resulting from the

installation, operation or maintenance of such public street lighting facilities.

(Code 2004, § 106-804; Code 2015, § 28-875)

Secs. 28-876—28-887. Reserved.

DIVISION 3. USE OF CITY-OWNED UTILITY POLES FOR WIRELESS FACILITIES*

***State law reference--**Access to locality rights-of-way for installation and maintenance of small cell facilities on existing structures, Code of Virginia, § 56-484.29.

Sec. 28-888. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

Permit means a permit or renewal permit issued by the Director to a wireless services provider in accordance with this division.

Permittee means any wireless services provider that holds a permit issued in accordance with this division.

Renewal permit means a permit that is renewed in accordance with this division.

Small cell facility means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a wooden or ornamental electric utility pole, including streetlights, owned by the City and maintained and operated by the Department as part of the City's electric utility.

Wireless facility means equipment, excluding cameras, at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, small cell facilities, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

Wireless infrastructure means transmission equipment, wireless facilities, or wireless support structures.

Wireless services means (i) "personal wireless services" as defined in 47 USC 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 USC 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 USC 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

Wireless services provider means a provider of wireless services that owns, operates, or maintains wireless infrastructure.

Wireless support structure means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities.

(Code 2015, § 28-876; Ord. No. 2019-310, § 2(28-876), 12-9-2019)

Cross reference—Definitions generally, § 1-2.

Sec. 28-889. Permits authorizing the use of utility poles for wireless facilities; regulations.

Notwithstanding any provision of this chapter to the contrary, the Director is authorized to issue and renew

permits, approved as to form by the City Attorney, to wireless services providers for the attachment of wireless facilities to utility poles in accordance with this division, the applicable standards established by the Federal Communications Commission, and other applicable laws and rules, regulations, and guidelines. The Director shall issue, enforce, and, from time to time, modify rules, regulations, or guidelines consistent with this division, the applicable standards established by the Federal Communications Commission, and other applicable laws and regulations to carry out the requirements of this division. Such rules, regulations, and guidelines, and any and all modifications thereto, shall be approved as to form by the City Attorney or the designee thereof prior to issuance.

(Code 2015, § 28-877; Ord. No. 2019-310, § 2(28-877), 12-9-2019)

Sec. 28-890. Permit and application requirement.

No person shall attach any wireless facility to any utility pole unless such person has filed a completed application, obtained a permit in accordance with this division, and complied with all of the applicable requirements of Chapter 24.

(Code 2015, § 28-878; Ord. No. 2019-310, § 2(28-878), 12-9-2019)

Sec. 28-891. Application for a permit.

(a) Any wireless services provider may file an application on forms provided by the Director to obtain or renew a permit for the attachment of wireless facilities to utility poles in accordance with this division. Such applications shall be submitted to the Director, subject to such written procedures as the Director may establish for such purpose. Each application to obtain or renew a permit shall be accompanied by payment of an annual pole attachment rental fee of $270.00, payment of the applicable Department and contractor rates set forth below to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole and a certificate of insurance demonstrating evidence of commercial general liability insurance coverage of at least $3,000,000.00 for each occurrence and at least $5,000,000.00 in the aggregate, listing the City as an additional insured, and indicating that the City will receive at least 30 days' notice of cancellation or material modification of the policy.

	Rate Per Hour	*Overtime Rate Per Hour*
Department rates to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole for each permit covering one or more wireless facilities		
Overhead crew:		
Crew supervisor	$40.00	$60.00
First class lineman	$30.00	$45.00
Second class lineman	$25.00	$37.50
Ground man/truck driver	$25.00	$37.50
Equipment operator	$20.00	$30.00
Underground crew:		
Crew supervisor	$40.00	$60.00
Underground technician	$30.00	$45.00
Ground man/helper	$25.00	$37.50
Overhead equipment:		
One pickup truck	$5.00	$5.00
One bucket truck	$25.00	$25.00
One pole trailer	$5.00	$5.00

One line truck with digger	$25.00	$25.00
One team truck	$5.00	$5.00
DPU engineer	$35.00	
DPU inspector	$40.00	
Contractor rates to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole for each permit covering one or more wireless facilities		
Overhead crew:		
Crew supervisor	$85.00	$120.00
First class lineman	$80.00	$110.00
Second class lineman	$70.00	$100.00
Ground man/truck driver	$55.00	$75.00
Equipment operator	$50.00	$70.00
Underground crew:		
Crew supervisor	$75.00	$105.00
Underground technician	$60.00	$85.00
Ground man/helper	$40.00	$60.00
Overhead equipment:		
One pickup truck	$20.00	$20.00
One bucket truck	$40.00	$40.00
One pole trailer	$10.00	$10.00
One line truck with digger	$45.00	$45.00
One team truck	$30.00	$30.00

(b) The Director shall consider the following information and materials, which the applicant shall provide with any application for a permit. The Director or the designee thereof may deem as incomplete any application not containing all of the following information:

(1) The applicant's name and status as a wireless services provider and a valid electronic mail address at which the applicant may be contacted.

(2) The name, address, and phone number of the authorized representative of the applicant.

(3) A general statement of the applicant's proposed use of utility poles.

(4) Certification by the applicant of the applicant's compliance with all applicable standards established by the Federal Communications Commission, and with all other applicable Federal, State, and local laws and regulations.

(5) Detailed plans clearly depicting the following, provided that the Director may, in the Director's discretion and to the extent permitted by law, require any such plans to be sealed by a certified land surveyor or professional engineer:

a. Scaled drawing detailing the location of the utility pole on which the wireless facility will be attached. To the extent available to the applicant, all of the following information shall be included:

1. The names of the streets in the vicinity;

2. The precise location of the utility pole in the streets, including the distance to the adjacent street's right-of-way lines;
3. Approximate lot lines of adjacent properties, along with the parcel numbers, addresses, and the property owners' names; and
4. Nearby features, shown with labels, including, but not limited to, sidewalks, curbs, pavement, utility infrastructure, houses, buildings, and structures;
5. A detailed plan with an overhead view of the proposed wireless facility, including the dimensions and specifications of the antenna, base station, and all other associated wireless equipment;
6. A detailed elevation with a profile view showing the proposed location of the wireless facility on the utility pole and a drawing and labels depicting the proposed wireless facility, including the base station and all other associated equipment as well as all existing facilities and attachments located on the utility pole. The applicant shall include dimensioning to indicate the heights and separations of the facilities on the utility pole upon completion of the proposed attachment;
7. All other information as may be requested by the Director, to the extent permitted by law, to carry out the requirements of this division.

(Code 2015, § 28-879; Ord. No. 2019-310, § 2(28-879), 12-9-2019)

Sec. 28-892. General terms of permits.

Permits issued in accordance with this division shall contain, at a minimum, the following general terms and conditions:

(a) A requirement that the permittee shall comply with the requirements and limitations set forth in the permit as prescribed by the Director in accordance with this division.

(b) A requirement that the permittee shall comply with this division, the applicable requirements of the applicable standards established by the Federal Communications Commission, and all other applicable Federal, State, or local laws, rules, regulations, and guidelines.

(c) A requirement that the permittee shall maintain the wireless facilities covered by a permit in a manner determined by the Director to preserve the public safety, health and welfare with respect to electric utility facilities within the City.

(d) A requirement that the permittee shall protect, at the permittee's expense, the City's electric utility infrastructure, and all other City-owned real property or City-owned personal property, from damage that may be caused by the permittee's wireless facilities or any installation or maintenance thereof.

(e) A provision that the Director shall take such action, as appropriate and to the extent permitted by law, to establish, maintain, and operate City-owned wireless network technologies, and self-monitoring, analysis and reporting technology and to request access to wireless facilities and bandwidth from the permittee, in order to facilitate the City's use of City-owned wireless facilities, equipment, and the radio frequency spectrum.

(f) A requirement that the permittee, upon the written request of the Director, shall submit to the Director all such information and documentation as the Director may deem necessary, to the extent permitted by law, to ensure the permittee's compliance with the permit and with this division.

(g) A requirement that the permittee, upon the written request of the Director, shall submit to the Director all information and documentation pertaining to the wireless facilities installed or operated by the permittee, including, but not limited to, all equipment providing service to the City pursuant to the permit and each permit issued in accordance with this division.

(h) A provision authorizing the Director, upon the written request of the permittee, to modify the permit by a writing approved as to form by the City Attorney.

(i) A provision authorizing the Director to modify the permit, by a writing approved as to form by the City Attorney, as the Director deems necessary to the extent required or permitted by law or for the preservation of the public safety, health, and welfare.

(j) A requirement that any failure to comply with the permit requirements, the requirements of this division, or applicable Federal, State, or local laws and rules, regulations, and guidelines shall result in revocation of the permit, which revocation shall not be appealable.

(k) A requirement that the Director shall provide the permittee with written notification of any revocation of the permit.

(l) A requirement that the permittee shall remove all wireless facilities from utility poles covered by the permit within 30 days after the date of any written notification from the Director of the revocation of the permit.

(m) A requirement that, upon the Director's determination, in accordance with criteria set forth in the rules, regulations, and guidelines issued in accordance with this division, that if a wireless facility covered by a permit in any way reduces the City's access to the radio frequency spectrum or in any way reduces the City's ability to establish, maintain, or operate one or more City-owned wireless facilities or other City-owned equipment on utility poles, the Director shall request access to such facility from the permittee, or request that the permittee mitigate such reduction or, if the request for access or mitigation is denied, revoke the permit, and provide the permittee with notice of such revocation in accordance with subsection (11) of this section. In the case of revocation in accordance with this subsection, the permittee shall remove all wireless facilities from utility poles covered by the permit in accordance with subsection (12) of this section.

(n) A requirement that each permittee that, as determined by the Director in accordance with criteria set forth in the rules, regulations, and guidelines issued in accordance with this division, has abandoned such permittee's wireless facility, has relocated a wireless facility to another utility pole without the express written consent of the Director, or has attached to a utility pole a wireless facility in violation of this division shall pay the applicable Department and contractor rates set forth below to remove any wireless facilities.

		Rate Per Hour	*Overtime Rate Per Hour*
Department rates for each permit covering one or more wireless facilities to remove any wireless facilities			
	Overhead crew:		
	Crew supervisor	$40.00	$60.00
	First class lineman	$30.00	$45.00
	Second class lineman	$25.00	$37.50
	Ground man/truck driver	$25.00	$37.50
	Equipment operator	$20.00	$30.00
	Underground crew:		
	Crew supervisor	$40.00	$60.00
	Underground technician	$30.00	$45.00
	Ground man/helper	$25.00	$37.50
	Overhead equipment:		
	One pickup truck	$5.00	$5.00
	One bucket truck	$25.00	$25.00

	One pole trailer	$5.00	$5.00
	One line truck with digger	$25.00	$25.00
	One team truck	$5.00	$5.00
	DPU engineer	$35.00	
	DPU inspector	$40.00	
Contractor rates for each permit covering one or more wireless facilities to remove any wireless facilities			
	Overhead crew:		
	Crew supervisor	$85.00	$120.00
	First class lineman	$80.00	$110.00
	Second class lineman	$70.00	$100.00
	Ground man/truck driver	$55.00	$75.00
	Equipment operator	$50.00	$70.00
	Underground crew:		
	Crew supervisor	$75.00	$105.00
	Underground technician	$60.00	$85.00
	Ground man/helper	$40.00	$60.00
	Overhead equipment:		
	One pickup truck	$20.00	$20.00
	One bucket truck	$40.00	$40.00
	One pole trailer	$10.00	$10.00
	One line truck with digger	$45.00	$45.00
	One team truck	$30.00	$30.00

(o) Any other terms or conditions that the Director deems appropriate to fulfill the requirements of this division or applicable Federal, State, or local laws, rules, regulations, and guidelines.

(Code 2015, § 28-880; Ord. No. 2019-310, § 2(28-880), 12-9-2019; Ord. No. 2020-014, § 1, 1-27-2020)

Sec. 28-893. Issuance of permits.

Permits issued in accordance with this division shall be subject to the following limitations:

(a) The Director may issue and renew one or more permits to the same permittee, provided that the permittee has filed a completed application in accordance with this division and has paid, as applicable, the annual pole attachment rental fee of $270.00 per wireless facility and the applicable Department and contractor rates set forth below to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole.

		Rate Per Hour	*Overtime Rate Per Hour*
Department rates to prepare, inspect, or perform other work necessary to allow for the attachment for a wireless facility to a utility pole for each permit covering one or more wireless facilities			
	Overhead crew:		

	Crew supervisor	$40.00	$60.00
	First class lineman	$30.00	$45.00
	Second class lineman	$25.00	$37.50
	Ground man/truck driver	$25.00	$37.50
	Equipment operator	$20.00	$30.00
	Underground crew:		
	Crew supervisor	$40.00	$60.00
	Underground technician	$30.00	$45.00
	Ground man/helper	$25.00	$37.50
	Overhead equipment:		
	One pickup truck	$5.00	$5.00
	One bucket truck	$25.00	$25.00
	One pole trailer	$5.00	$5.00
	One line truck with digger	$25.00	$25.00
	One team truck	$5.00	$5.00
	DPU engineer	$35.00	
	DPU inspector	$40.00	
Contractor rates to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole for each permit covering one or more wireless facilities			
	Overhead crew:		
	Crew supervisor	$85.00	$120.00
	First class lineman	$80.00	$110.00
	Second class lineman	$70.00	$100.00
	Ground man/truck driver	$55.00	$75.00
	Equipment operator	$50.00	$70.00
	Underground crew:		
	Crew supervisor	$75.00	$105.00
	Underground technician	$60.00	$85.00
	Ground man/helper	$40.00	$60.00
	Overhead equipment:		
	One pickup truck	$20.00	$20.00
	One bucket truck	$40.00	$40.00
	One pole trailer	$10.00	$10.00
	One line truck with digger	$45.00	$45.00
	One team truck	$30.00	$30.00

(b) The applicant or permittee, as applicable, shall file an application and obtain or renew a permit for any

wireless facility such permittee proposes to attach to a utility pole. A permit may cover more than one wireless facility.

(c) The applicant shall demonstrate on the applicant's application that the applicant has met all of the applicable requirements of this division, the Federal Telecommunications Act of 1996, as amended, the applicable standards established by the Federal Communications Commission, and all other applicable Federal, State, or local laws and rules, regulations, and guidelines.

(d) Each permit issued by the Director shall, at a minimum, state the following:

(1) The name of the permittee and the name, address, and phone number of the authorized representative of the permittee.

(2) The description of the wireless facility covered by the permit.

(3) Specifications concerning the location of the utility pole to which a wireless facility is attached and plans depicting where on the utility pole the wireless facility is installed.

(4) Such limitations and information, to the extent permitted by law, that the Director deems necessary for the administration of the permit in accordance with this division and for the preservation of the public safety, health, and welfare.

(e) The Director, upon the written request of the permittee, may modify a permit by a writing approved as to form by the City Attorney.

(f) The Director may modify a permit, by a writing approved as to form by the City Attorney, as the Director deems necessary to the extent required or permitted by law or for the preservation of the public safety, health, and welfare.

(g) Permits may be initially issued for a period of 36 months and renewed for periods of 24 months each from the date of the expiration of any such permit or renewal permit, as applicable, subject to the requirements of this division and the rules, regulations, and guidelines issued in accordance with this division and provided that an application has been filed for such issuance or renewal. In addition, a permit may be renewed pursuant to terms and conditions not set forth in a permittee's previously issued or renewed permit, provided that such terms and conditions are approved by the Director and are not inconsistent with the requirements of this division.

(h) Permits shall incorporate by reference the provisions of this division, the rules, regulations, and guidelines issued in accordance with this division, and the conditions set forth and information provided by the applicant or permittee in the application filed in accordance with this division.

(i) The permittee shall execute a release, waiver of liability, and indemnification agreement prior to the issuance of any permit. This subsection (i) shall not apply to governmental organizations.

(j) The Director shall conduct inspections of each wireless facility covered by a permit, including all documents associated therewith, at least annually and at such other times as the Director deems necessary to the extent required or permitted by law to ensure compliance with the requirements of this division and the rules, regulations, and guidelines issued in accordance with this division. Each permittee shall pay the annual pole attachment rental fee of $270.00 per wireless facility and the applicable Department and contractor rates set forth below to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole for each permit covering one or more wireless facilities.

		Rate Per Hour	*Overtime Rate Per Hour*
Department rates to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole for each permit covering one or more wireless facilities			
	Overhead crew:		
	Crew supervisor	$40.00	$60.00

	First class lineman	$30.00	$45.00
	Second class lineman	$25.00	$37.50
	Ground man/truck driver	$25.00	$37.50
	Equipment operator	$20.00	$30.00
	Underground crew:		
	Crew supervisor	$40.00	$60.00
	Underground technician	$30.00	$45.00
	Ground man/helper	$25.00	$37.50
	Overhead equipment:		
	One pickup truck	$5.00	$5.00
	One bucket truck	$25.00	$25.00
	One pole trailer	$5.00	$5.00
	One line truck with digger	$25.00	$25.00
	One team truck	$5.00	$5.00
	DPU engineer	$35.00	
	DPU inspector	$40.00	
Contractor rates to prepare, inspect, or perform other work necessary to allow for the attachment of a wireless facility to a utility pole for each permit covering one or more wireless facilities			
	Overhead crew:		
	Crew supervisor	$85.00	$120.00
	First class lineman	$80.00	$110.00
	Second class lineman	$70.00	$100.00
	Ground man/truck driver	$55.00	$75.00
	Equipment operator	$50.00	$70.00
	Underground crew:		
	Crew supervisor	$75.00	$105.00
	Underground technician	$60.00	$85.00
	Ground man/helper	$40.00	$60.00
	Overhead equipment:		
	One pickup truck	$20.00	$20.00
	One bucket truck	$40.00	$40.00
	One pole trailer	$10.00	$10.00
	One line truck with digger	$45.00	$45.00
	One team truck	$30.00	$30.00

(Code 2015, § 28-881; Ord. No. 2019-310, §§ 2(28-881), 3, 12-9-2019; Ord. No. 2020-014, § 1, 1-27-2020)

Sec. 28-894. Denial of permit; revocation.

(a) The Director shall deny a permit to any wireless services provider upon determining that any such

wireless services provider has not complied with any one of the requirements of this division, any one of the wireless services provider's existing or expired permits, or applicable Federal, State, or local laws, rules, regulations, and guidelines.

(b) The Director may revoke the permit of any permittee upon determining that the permittee has not complied with any one of the requirements of this division, any one of the permittee's existing permits, or applicable Federal, State, or local laws and rules, regulations, and guidelines or that a wireless facility constitutes a threat to the public safety, health, or welfare. The Director shall provide the permittee with written notification of any revocation of the permittee's permit. The permittee shall remove from the utility poles all wireless facilities covered by a permit within 30 days after the date of any written notification from the Director of the revocation of such permit. However, in a case where the Director determines that a wireless facility constitutes a threat to the public safety, health, or welfare, the Director may remove any such wireless facility from the utility pole.

(Code 2015, § 28-882; Ord. No. 2019-310, § 2(28-882), 12-9-2019)

Secs. 28-895—28-906. Reserved.

ARTICLE VIII. STORMWATER*

***Charter reference—**Stormwater utility, § 13.11.

Cross reference—Stormwater system in subdivisions, § 25-256.

State law reference—Stormwater utility or system of service charges authorized, Code of Virginia, § 15.2-2114.

DIVISION 1. GENERALLY

Sec. 28-907. Definitions.

The following words and terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base charge means the annual stormwater service management charge charged on each 1,000 square feet or a percentage of 1,000 square feet of impervious surface area. Such base charges shall be calculated by the Director and adopted by the City Council by ordinance.

Best management practices means schedules of activities, prohibitions of practices, including both a structural or nonstructural practice, maintenance procedures, and other management practices to prevent or reduce the pollution of surface water and groundwater systems from the impacts of land-disturbing activities. Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Clean Water Act means the Federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.

Developed means that manmade changes have been made to a property, which changes may include, but are not limited to, buildings or other structures for which a building permit must be obtained under the requirements of the Virginia Uniform Statewide Building Code and this Code, mining, dredging, filling, grading, paving, excavation or drilling operations, or the storage of equipment or materials.

Hazardous materials means any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Household hazardous materials means products used and disposed of by single-family or non-single-family residential consumers as opposed to industrial consumers, including, but not limited to, paints, stains, varnishes, solvents, pesticides, and other materials or products containing volatile chemicals that can catch fire, react or explode, or that are corrosive or toxic.

Illicit connection means either:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any discharge to a municipal separate storm sewer system that is not comprised entirely of stormwater, except discharges pursuant to a Virginia Pollutant Discharge Elimination System or Virginia Stormwater Management Program permit (other than the Virginia Stormwater Management Program permit for discharges from the municipal separate storm system), discharges resulting from firefighting activities, and discharges identified by and in compliance with 9VAC25-890-20(C)(2).

Impervious surface means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious cover includes, but is not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted gravel surface.

Multiple of 1,000 square feet means the quotient of the total impervious surface area divided by 1,000 square feet.

Nonresidential property means property which does not serve the primary purpose of providing permanent dwelling units. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels, offices, churches, schools, hospitals, universities, cemeteries, Federal, State and local government properties.

Non-single-family residential property means a building or other shelter that has been divided into separate units to house more than one family or household living independently of each other.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Person means any individual, partnership, firm, association, joint venture, corporation, trust, estate, commission, board, public or private institution, utility, cooperative, or any other legal entity.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Property means, for the purposes of this article, real property defined to mean land and generally whatever is erected or growing upon or affixed to land.

Single-family residential property means a single-family detached residential property, rowhouse, or townhouse regardless of the size of the parcel or the improvements located thereon.

Stormwater facilities means all conveyances, pipes, and treatment works which are a part of the municipal separate storm sewer and which are used to convey stormwater. The term "stormwater facilities" excludes facilities on private property unless the City has agreed in writing to operate or maintain those facilities on a non-emergency basis.

Total annual charge means the annual amount to be billed and paid by each owner of developed property in the City.

Undeveloped land means any land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state.

Virginia Pollutant Discharge Elimination System permit means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

Virginia Stormwater Management Program permit means a document issued by the permit-issuing authority pursuant to the Virginia Stormwater Management Act authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters. Under the approved State program, a Virginia Stormwater Management Program permit is equivalent to a NPDES permit.

Waters of the State means all waters on the surface and underground wholly or partially within the Commonwealth or within its jurisdiction.

(Code 2004, § 106-805; Code 2015, § 28-899; Ord. No. 2009-60-83, § 1, 5-26-2009; Ord. No. 2013-139-136, § 2, 7-22-2013; Ord. No. 2018-092, § 1, 5-14-2018; Ord. No. 2018-218, § 1, 9-24-2018)

Cross reference—Definitions generally, § 1-2.

Sec. 28-908. Utility administration.

Pursuant to Code of Virginia, § 15.2-2114 and Section 13.11 of the Charter, there is, as of the effective date of the ordinance first adopting this section, established a stormwater utility in the City, which utility shall be managed and operated by the Department of Public Utilities. Part of the operation and maintenance of the stormwater utility shall include the implementation of, and responsibility for, a stormwater program. The stormwater utility shall also have the responsibility to construct, operate, and maintain stormwater facilities and pay other project costs and perform other functions or duties authorized by law. All stormwater facilities shall be owned by the City and operated in accordance with all applicable laws. The Director shall have all reasonable and lawful authority to construct, operate, repair, relocate and maintain the stormwater facilities and shall have the authority to enforce the provisions of this article.

(Code 2004, § 106-806; Code 2015, § 28-900; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-909. Limitation on City's liability for failure of supply of stormwater services.

Floods from runoff may occur that exceed the capacity of stormwater facilities constructed and maintained by funds made available pursuant to this chapter. This chapter does not imply that property subject to the fees and charges established herein will be free from stormwater flooding or flood damage. The City shall not be liable to any person for any flood damage. Further, payment of a stormwater fee to the City for stormwater service does not relieve a property owner from obtaining flood insurance.

(Code 2004, § 106-807; Code 2015, § 28-901; Ord. No. 2009-60-83, § 1, 5-26-2009)

Secs. 28-910—28-920. Reserved.

DIVISION 2. RATES

Sec. 28-921. Service generally.

Stormwater service shall be supplied to property owners, and property owners shall be charged and pay for stormwater services, in accordance with the base charge contained in this division, as that base charge is applied under the terms and conditions set forth in this article to calculate a total annual charge for stormwater service.

(Code 2004, § 106-808; Code 2015, § 28-921; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-922. Stormwater utility charge.

(a) *Application.* For the fiscal year beginning July 1, 2009, and for each and every fiscal year thereafter, each owner of a parcel of developed property in the City, whether the property is a single-family residential property, a non-single-family residential property, or a nonresidential property, shall pay a total annual charge for stormwater service. This charge shall be billed by a methodology in accordance with state law, which methodology shall be determined in accordance with subsection (e) of this section.

(b) *Calculation of total annual charge.* The Director shall calculate the total annual charge to be billed to each parcel of developed property in the City, using the applicable base charge and, for nonresidential properties

and non-single-family residential properties, the amount of impervious surface on the property. The Director shall issue regulations pursuant to Section 28-26 establishing how the base charge will be used to calculate the total annual charge for developed single-family residential, non-single-family residential, or nonresidential property. The base charge and the total annual charge shall be calculated to ensure adequate revenues to provide for a balanced operation, maintenance and capital improvements budget for the stormwater utility.

(c) *Classifications of service.* For purposes of determining the applicable total annual charge, all properties in the City shall be classified into one of the following three classes:

(1) Developed single-family residential property under Section 28-923;

(2) Developed nonresidential and non-single-family residential property under Section 28-924; or

(3) Undeveloped property under Section 28-925.

(d) Special provisions; waivers, credits and adjustments.

(1) The total annual charge shall not be billed for properties owned by Federal, State, or local government agencies when the agency owns and provides for maintenance of storm drainage and stormwater control facilities or is a unit of the locality administering the program.

(2) The total annual charge shall not be billed for roads and public street rights-of-way that are owned and maintained by State or local agencies.

(3) Pursuant to Section 28-26, the Director shall issue a regulation governing whether and how to provide full or partial credits to certain developed properties with effective stormwater management mitigation or remediation.

(4) Waivers shall not be provided to any person who is required by law to obtain a stormwater permit from the Virginia Department of Environmental Quality but does not obtain such permit.

(e) *Charge for stormwater collection, treatment and management service*. For the provision of stormwater collection, treatment and management service, there is imposed a charge, which charge shall be determined as described in this section. This charge shall be collected from the owner of the real property for which services are provided. The Director of Public Utilities shall have the authority to determine total impervious surface on the property and for developed non-single-family residential property and developed nonresidential property the determination will include the corresponding multiple of 1,000 square feet units for the property.

(Code 2004, § 106-809; Code 2015, § 28-922; Ord. No. 2009-60-83, § 1, 5-26-2009; Ord. No. 2010-184-181, § 1, 10-25-2010; Ord. No. 2013-139-136, § 2, 7-22-2013; Ord. No. 2018-092, § 1, 5-14-2018; Ord. No. 2018-218, § 1, 9-24-2018)

Sec. 28-923. Developed single-family residential property.

All owners of developed single-family residential property in the City, whether the subject property is occupied or unoccupied, shall be responsible for paying a total annual charge equal to the applicable base charge amount stated below:

		Per Month	*Per Year*
(1)	For property owners with homes that have impervious area measuring less than or equal to 1,000 square feet (Tier 1)	$2.23	$26.71
(2)	For property owners with homes that have impervious area measuring greater than 1,000 square feet and less than or equal to 2,000 square feet (Tier 2)	$4.10	$49.17
(3)	For property owners with homes that have impervious area measuring greater than 2,000 square feet and less than or equal to 3,000 square feet (Tier 3)	$6.67	$80.00
(4)	For property owners with homes that have impervious area measuring greater than 3,000 square feet and less than or equal to 4,000 square feet (Tier 4)	$9.51	$114.07
(5)	For property owners with homes that have impervious area measuring greater than	$13.78	$165.36

	4,000 square feet (Tier 5)		

(Code 2004, § 106-810; Code 2015, § 28-923; Ord. No. 2009-60-83, §§ 1, 3, 5-26-2009; Ord. No. 2017-060, § 1, 5-15-2017; Ord. No. 2018-092, §§ 1, 2, 5-14-2018; Ord. No. 2018-218, § 2, 9-24-2018; Ord. No. 2019-069, § 1, 5-13-2019)

Sec. 28-924. Developed nonresidential and non-single-family residential property.

All owners of developed nonresidential and non-single-family residential property, whether the subject property is occupied or unoccupied, shall be responsible for paying the applicable base charge by a numeric factor associated with the impervious surface on the property. The base charge is applied per 1,000 square feet. Pursuant to Section 28-26, the Director shall issue a regulation providing the detailed calculation that will be used to calculate the total annual charge for developed nonresidential property or non-single-family residential property shall be $2.76 per month and $33.12 per year.

(Code 2004, § 106-811; Code 2015, § 28-924; Ord. No. 2009-60-83, §§ 1, 3, 5-26-2009; Ord. No. 2017-060, § 1, 5-15-2017; Ord. No. 2018-092, §§ 1, 2, 5-14-2018; Ord. No. 2018-218, § 2, 9-24-2018; Ord. No. 2019-069, § 1, 5-13-2019)

Sec. 28-925. Undeveloped property.

Undeveloped property shall be exempt from the base charge and the total annual charge.

(Code 2004, § 106-812; Code 2015, § 28-925; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-926. Stormwater utility revenues.

The revenues collected pursuant to this article shall be deposited in a separate ledger account. The funds deposited shall be used exclusively to provide services and facilities related to stormwater management, as permitted by law.

(Code 2004, § 106-813; Code 2015, § 28-926; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-927. City not required to recommend favorable rates.

Nothing in this article shall be construed to impose upon the City, the Director or any other of its agents and employees the duty to give notice of or to recommend to a property owner the most favorable rates to which the property owner may be entitled for the supply of stormwater service. No refund shall be made to a property owner of any sum representing the difference between the amount paid at a higher rate and the amount the property owner would have paid at a lower rate.

(Code 2004, § 106-815; Code 2015, § 28-927; Ord. No. 2009-60-83, § 1, 5-26-2009)

Secs. 28-928—28-957. Reserved.

DIVISION 3. ILLICIT DISCHARGE AND CONNECTION

Sec. 28-958. Unpermitted discharges of dry and wet weather overflows from sanitary sewers into the City's municipal separate storm sewer or waters of the State.

Unpermitted discharges of dry and wet weather overflows from sanitary sewers into the City's municipal separate storm sewer or into waters of the State shall be controlled in accordance with State and Federal law.

(Code 2004, § 106-818; Code 2015, § 28-958; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-959. Infiltration from sanitary sewers into the City's municipal separate storm sewer or waters of the State.

Infiltration from sanitary sewers into the City's municipal separate storm sewer or waters of the State shall be controlled in accordance with State and Federal law.

(Code 2004, § 106-819; Code 2015, § 28-959; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-960. Discharge of non-stormwater to the City's municipal separate storm sewer.

(a) Except as provided in subsection (b) of this section, it shall be unlawful to discharge non-stormwater to the City's municipal separate storm sewer or to:

(1) Violate any condition or provision of this article;

(2) Connect or cause to be connected to the municipal separate storm sewer, without a Virginia Pollutant Discharge Elimination System permit or a Virginia Stormwater Management Program permit, any structure that conveys any liquid other than stormwater or discharges listed in subsection (b) of this section, including, but not limited to, pipes, drains, sanitary sewer lines, washing machine drains or floor drains; or

(3) Cause or allow the discharge of pollutants or household hazardous wastes to the municipal separate storm sewer.

(b) Unless identified by the City, the United States Environmental Protection Agency, or the State as significant sources of pollutants to waters of the State, it shall not be unlawful to discharge the following non-stormwater into the City's municipal separate storm sewer:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows;

(4) Rising groundwaters;

(5) Uncontaminated groundwater infiltration as defined by 40 CFR 35.2005(20) to separate storm sewers;

(6) Uncontaminated pumped groundwater;

(7) Discharges from potable water sources;

(8) Foundation drains;

(9) Air conditioning condensate;

(10) Irrigation water;

(11) Springs;

(12) Water from crawl space pumps;

(13) Footing drains;

(14) Lawn watering;

(15) Individual residential car washing;

(16) Flows from riparian habitats and wetlands;

(17) Dechlorinated swimming pool discharges;

(18) Street wash waters;

(19) Discharges or flows from emergency firefighting activities;

(20) Discharges approved by the Director as being necessary to protect public health and safety;

(21) Dye testing, but only if verbal notification has been provided to the Director 24 hours prior to the time of the test; dye testing without advance notice is a violation of this chapter; or

(22) Runoff of roadway anti-icing and deicing agents, provided that such agents are applied according to best management practices.

(Code 2004, § 106-820; Code 2015, § 28-960; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-961. Inspecting and monitoring stormwater discharge.

The Director shall have the authority to make such lawful inspections and conduct such monitoring of stormwater outfalls or other components of the municipal separate storm sewer as may be necessary or appropriate in the administration and enforcement of this article.

(Code 2004, § 106-821; Code 2015, § 28-961; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-962. Illicit connection prohibited.

(a) The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(b) No person owning or in control of any premises shall connect a line conveying sewage to the municipal separate storm sewer, or allow such a pre-existing connection to continue. A person shall be considered to be in violation of this section if the person connects a line conveying sewage to the municipal separate storm sewer, or allow such a connection to continue.

(Code 2004, § 106-822; Code 2015, § 28-962; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-963. Threatened discharges.

(a) It is unlawful to cause materials to be deposited in such a manner or location as to constitute a threatened discharge into the municipal separate storm sewer or waters of the State. Pollutants that are no longer contained in a pipe, tank or other container are considered to be threatened discharges unless they are actively being cleaned up.

(b) The discharge of wastewater from pressure washing to the municipal separate storm sewer is prohibited by this chapter.

(c) Vehicles, machinery and equipment must be maintained to reduce leaking fluids. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants.

(d) Materials, including, but not limited to, stockpiles used in construction and landscaping activities, shall be stored to prevent the potential discharge of pollutants.

(e) Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent the discharge thereof to the municipal separate storm sewer or waters of the State.

(f) Pesticides, herbicides and fertilizers shall be applied in accordance with the manufacturer recommendations and applicable laws. Excessive application shall be avoided. Pesticides, herbicides and fertilizers shall be stored in a manner to prevent release to the municipal separate storm sewer or waters of the State.

(Code 2004, § 106-823; Code 2015, § 28-963; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-964. Suspension and termination of municipal separate storm sewer access.

(a) *Suspension due to illicit discharges in emergency situations.* The Director may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present an imminent and substantial danger to the environment, or to the health or welfare of persons, or to the municipal separate storm sewer or waters of the State. In the event a violator fails to comply with such a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the municipal separate storm sewer or waters of the State, or to minimize danger to persons.

(b) *Termination due to the detection of illicit discharge.* Any person discharging to the municipal separate storm sewer in violation of this chapter may have such person's municipal separate storm sewer access terminated if such termination would, in the judgment of the Director, abate or reduce an illicit discharge. The Director shall provide written notice of the proposed termination of municipal separate storm sewer access to the person whose access is proposed to be terminated. The person subject to the notice may petition the Director for a hearing regarding the termination of access. Such hearing shall be conducted as provided in this division and in accordance with regulations promulgated by the Director. A person commits a violation of this chapter if the person reinstates municipal separate storm sewer access to premises terminated pursuant to this section without the prior approval of the Director.

(Code 2004, § 106-824; Code 2015, § 28-964; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-965. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for any premises, facility or operation, or responsible for emergency response for a facility or operation has information of any known or

suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer, or waters of the State, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by phone no later than 24 hours. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within five calendar days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Code 2004, § 106-825; Code 2015, § 28-965; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-966. Penalties for violation of division.

(a) *Violation.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. Any person who violates any of the provisions of this chapter shall be subject to one or more of the enforcement actions outlined in this section.

(b) *Abatement.*

(1) If the City abates a violation, then within ten days after abatement of the violation, the owner of the property shall be notified of the cost of abatement, including administrative costs, and that such costs shall be charged to the owner. Notice shall be given by personal delivery or by mail to the last known address of the owner as shown in the records of the City Assessor. The notice shall be effective upon the date of mailing or personal delivery. The property owner may file a written protest objecting to the amount of such charge within ten days of the effective date of the notice.

(2) If no protest is filed, then such charge shall become due and payable on the date set forth in the notice.

(3) In the event a protest is filed, the Director shall issue a decision within 15 days from the date of receipt of the written protest. Failure of the Director to issue an order within 15 days shall be deemed a denial of the protest. If any charges are upheld upon completion of such review, then such charges shall become due and payable ten days after the issuance of the order upon such protest.

(c) *Misdemeanor.* A willful violation of this division shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this article is permitted to remain shall constitute a separate offense.

(d) *Civil liability.* In addition to any criminal penalties provided, any person who violates any provision of this division may be liable to the City in a civil action for damages.

(e) *Remedies not exclusive.* The remedies in this chapter are cumulative and the exercise of any one or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this division. The remedies listed in this division are not exclusive of any other remedies available under any applicable Federal, State or local law and it is within the discretion of the City to seek cumulative remedies.

(Code 2004, § 106-826; Code 2015, § 28-966; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-967. Right to hearing.

Any property owner aggrieved by any action of the Director, or by inaction of the Director with regard to termination of municipal separate storm sewer access due to the detection of illicit discharge, may demand in writing a formal hearing by the Director. Any such request must be filed within ten days of the rendering of a notice by the Director that the owner's access will be terminated or the request will not be considered.

(Code 2004, § 106-827; Code 2015, § 28-967; Ord. No. 2009-60-83, § 1, 5-26-2009)

Sec. 28-968. Hearings.

(a) The hearings held under this division shall be held by at least one employee of the Department designated by the Director to conduct such hearings on behalf of the Department at a time and place authorized by the Director.

(b) A verbatim record of the proceedings of such hearings shall be taken and provided to the Director.

(c) The Director, pursuant to Section 28-26, shall issue regulations establishing how hearings will be held, the rules of such hearings and how decisions will be issued.

(Code 2004, § 106-828; Code 2015, § 28-968; Ord. No. 2009-60-83, § 1, 5-26-2009)

Chapter 29

VEHICLES FOR HIRE*

***Charter reference—**Authority of Council to issue permits for use of streets by taxicabs and other vehicles for hire, § 2.04(d).

Cross reference—Businesses and business regulations, Ch. 6; streets, sidewalks and public ways, Ch. 24; traffic and vehicles, Ch. 27.

State law reference—Authority to regulate taxicabs and other vehicles for hire, Code of Virginia, § 15.2-2015.

ARTICLE I. IN GENERAL

Sec. 29-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate means the certificate of public convenience and necessity granted by the City to owners of taxicabs to authorize such owners to engage in the business of providing taxicab service in the City as provided in this chapter.

Certificate holder means the owner of a taxicab who holds a valid unexpired or unrevoked certificate of public necessity and convenience to operate a taxicab under this chapter.

Driver means the person in control of and operating or driving a taxicab.

Motor vehicle means any vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used upon the public roads of the City and the roads open to the public on the property of public bodies in the transportation of passengers or property, not including any vehicle, locomotive or car operated exclusively on a rail.

Owner means any person in the business of providing taxicab service and having control of the operation or maintenance of a taxicab, including the purchaser under a conditional sales contract or other title-reserving agreement, and persons controlling or directing the operation of independently owned vehicles through methods such as, but not limited to, radio dispatched systems and name licensing agreements.

Person means every individual, firm, copartnership, association or corporation and every owner, certificate holder and driver.

Regular service means providing a minimum of two trips per week, for at least two consecutive months, with the same individual.

Taxicab means a passenger-carrying, self-propelled motor vehicle, not operating on a regular route or between fixed terminals, and having a seating capacity of not more than six passengers.

Taxicab stand means a stand designated for the sole use of taxicabs in accordance with this chapter.

(Code 1993, § 30-1; Code 2004, § 110-1; Code 2015, § 29-1)

Cross reference—Definitions generally, § 1-2.

Sec. 29-2. Applicability of chapter.

This chapter is adopted in the exercise of the police power granted to the City by its Charter and general law. This chapter is not intended to grant or offer a franchise to use the streets, but it is intended to regulate the operation of taxicabs and other vehicles, as specified, and the use thereof. The City Council reserves the right to amend or repeal this chapter at any time. Upon the repeal of this chapter, all privileges granted under this chapter shall cease and terminate.

(Code 1993, § 30-2; Code 2004, § 110-2; Code 2015, § 29-2)

Secs. 29-3—29-22. Reserved.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

Sec. 29-23. Penalties for violations.

Any person violating this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $100.00 for the first offense and not more than $500.00 for each subsequent offense.

(Code 1993, § 30-55; Code 2004, § 110-76; Code 2015, § 29-23)

Sec. 29-24. Exceptions.

The provisions of this article shall not apply to vehicles listed in Code of Virginia, § 46.2-2000.1, with the exception of those vehicles listed in Code of Virginia, § 46.2-2000.1(2), nor to common carriers of persons or property operating as public carriers by authority of the State Corporation Commission or under a franchise granted by the City.

(Code 1993, § 30-57; Code 2004, § 110-78; Code 2015, § 29-24)

Sec. 29-25. Enforcement.

This article shall be enforceable by all sworn law enforcement officers to the extent of their authority.

(Code 1993, § 30-54; Code 2004, § 110-75; Code 2015, § 29-25)

Sec. 29-26. Authority to make rules and regulations.

The Chief of Police is authorized and empowered to make such rules and regulations concerning the operation of taxicabs as are necessary and are not in conflict with this article for the purpose of administering, executing and making effective this article. Such rules and regulations so promulgated may include, without limitation, requirements for:

(1) The provision of such safety devices and procedures as the Chief may deem necessary for the safety of passengers and operations;

(2) Additional disciplinary rules, sanctions, and procedures as may be necessary and proper; and

(3) Appropriate rules governing the dress, hygiene and general appearance of taxicab drivers.

(Code 1993, § 30-59; Code 2004, § 110-80; Code 2015, § 29-26)

Sec. 29-27. Compliance with article.

No vehicle shall be operated or driven on the City streets as a taxicab, unless the certificate holder and driver thereof shall conform to and comply with the provisions, terms and conditions of this article.

(Code 1993, § 30-11; Code 2004, § 110-31; Code 2015, § 29-27)

Sec. 29-28. Unlawful for certificate holder to permit driver to violate article.

It shall be unlawful for a certificate holder of a taxicab certified under this article to knowingly permit a driver operating such vehicle to violate this article.

(Code 1993, § 30-56; Code 2004, § 110-77; Code 2015, § 29-28)

Sec. 29-29. Compliance with article requisite in advertising.

No person shall use the term "taxi," "taxicab," "cab," or any term of similar meaning in advertising, nor shall any person, by any means, claim to be the operator, driver or chauffeur of a taxicab unless such person shall have complied with the sections in this article insofar as the sections shall be applicable.

(Code 1993, § 30-53; Code 2004, § 110-74; Code 2015, § 29-29)

Sec. 29-30. Inspection of vehicles.

Every taxicab for which a certificate has been granted by the City shall be inspected by the Chief of Police or a designated member of the police department or such other reputable agency as the Chief of Police may prescribe at regular intervals of at least every 12 months and at such other times as the Chief may prescribe. If such vehicle shall be found to be in violation of the requirements of this article, to have inoperable air conditioning or heating

equipment, or to be unsafe, the owner thereof shall be notified by the Chief at once of such defect, and such vehicle shall not be operated thereafter until such defect has been remedied. If upon inspection it is found that the odometer of a vehicle has been unlawfully tampered with, the vehicle shall be permanently rejected for use as a taxicab.

(Code 1993, § 30-13; Code 2004, § 110-33; Code 2015, § 29-30; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-31. Lettering and decal on vehicle.

(a) There shall be displayed on every taxicab lettering clearly showing the name and number of the owner thereof and indicating that such vehicle is a taxicab. Taxicabs shall use only the word "taxi," "cab" or "taxicab" to indicate that such vehicle is a taxicab. The color scheme and the size, content and character of such lettering and the position thereof on each such vehicle shall be assigned by the Chief of Police, and no vehicle shall be operated under this article unless and until such approval has been obtained. The failure of any owner to comply with such specifications also shall constitute a violation of this article.

(b) No vehicle shall be operated under this article unless the Chief of Police has first assigned to such vehicle a decal which shall be affixed to and visible from the left rear of the vehicle and which shall contain a number registered with the Chief of Police. Such decal shall not be transferred to another vehicle, shall be displayed at all times and shall not be removed except when such vehicle is no longer in service in the certificate holder's fleet or except upon direction of the Chief of Police.

(c) If a vehicle is for any reason taken out of service as a taxicab on a permanent basis, the owner of the vehicle shall within 72 hours remove the assigned decal along with all other indicia of the vehicle's use as a taxicab.

(d) It shall be unlawful to operate a vehicle which does not meet the requirements of this section.

(Code 1993, § 30-14; Code 2004, § 110-34; Code 2015, § 29-31; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-32. Taximeters.

Every taxicab shall be equipped with a taximeter prescribed by the Chief of Police by which the charge for hire is mechanically or electronically calculated, both for distance traveled and for waiting time, and upon which such charge shall be indicated by means of figures clearly visible to the passenger. The taximeter shall be equipped with a mechanical or electronic device by which the driver of a taxicab can put the taximeter in operation, and the device shall be kept in an operating position at all times during the transportation of paying passengers. Rooflights and meters shall operate by use of one switch only so that the light will automatically be lit when the meter is not running. It shall be unlawful for a driver to fail, refuse or neglect to put the taximeter in operation by means of the device when the transportation of every passenger is begun in the City and to keep the device in an operating position at all times during the transportation of each passenger. Taximeters shall be inspected and validated for accuracy during such inspections provided in Section 29-30, provided that the Chief of Police may require the meter's accuracy to be validated by such independent testing agencies as may be approved by the Chief. If such independent testing agency is used, the owner shall pay the costs of such validation. Any taxicab found to have a defective taximeter shall not be operated for taxicab service until such defect is corrected.

(Code 1993, § 30-15; Code 2004, § 110-35; Code 2015, § 29-32)

Sec. 29-33. Rates generally.

Except as provided for in this article, rates to be charged to passengers engaging a taxicab shall be fixed, prescribed or established by the Council, and it shall be unlawful for the owner or driver of any such vehicle to charge a rate above or below the rate so fixed, prescribed or established.

(Code 1993, § 30-16; Code 2004, § 110-36; Code 2015, § 29-33)

Sec. 29-34. Rates enumerated; special discount for military, elderly or disabled passengers.

(a) The rates to be charged passengers by certificate holders or drivers of taxicabs shall be as follows, and it shall be unlawful for a certificate holder to permit or a driver to make any greater or lesser charge for the transportation of passengers and baggage:

(1) For the first one-fifth mile: $2.50.

(2) For each succeeding one-fifth mile: $0.50.

(3) For each 80 seconds of waiting time. Waiting time shall include the time consumed while the taxicab is stopped or moving at a speed less than 15 miles per hour, and time consumed waiting for a passenger beginning five minutes after the time of arrival at the place to which it has been called and the time consumed while it is standing at the direction of the passenger. Waiting time shall not include and no charge shall be made for the time lost on account of inefficiency of the taxicab or its operation or time consumed by premature response to a call. No charge shall be made for mileage while waiting time is being charged: $0.50.

(4) For each additional passenger over one, provided that children six years of age or younger, when accompanying a fare-paying passenger, shall not be deemed additional passengers for the assessment of such additional charge: $1.00.

(b) For a trip originating between the hours of 9:00 p.m. and 6:00 a.m. of the day following, in addition to the charges registered on the meter, a surcharge of $1.00 per trip shall be added to compute the fare for such trip.

(c) The owner of any taxicab, upon receipt of satisfactory proof that a person is 65 years of age or older, disabled, active duty military or a veteran, may offer a discount not to exceed 20 percent of the total charge for transportation and services. For purposes of eligibility under this subsection, disabled persons include individuals who are physically, hearing, mentally, or visually impaired. The following identification may serve as satisfactory proof of age or disability:

(1) A valid driver's license;

(2) A valid GRTC Senior Citizens ID or Medicare Card;

(3) A valid GRTC Handicapped or Disabled Identification Card;

(4) A valid identification card issued by a public transportation provider to meet the requirements of the Federal Americans with Disabilities Act; or

(5) A valid military or veteran ID card.

(d) The owner of any taxicab may enter into written contracts with organizations and companies to provide taxicab services on a negotiated basis. The owner of any taxicab may enter into written contracts with individuals to provide, on a negotiated basis, regular service, as defined in Section 29-1. All such contracts must be kept and preserved and shall be subject to inspection in the main offices of the taxicab company during the terms of the contract and for 12 months after termination of the contract. The rates to be charged for such services under written contract shall not be fixed, prescribed, or established by the council. As required in Section 29-32, taximeters shall be in operation at all times during the transportation of passengers, however, the charge for such services shall be governed by the written contract, and not the taximeter.

(e) For a trip originating at Richmond International Airport, the rate shall be $10.00 or the charge registered on the meter, whichever is greater, plus the current airport taxicab access fee.

(f) When the most direct route to a passenger's destination requires payment of a toll, before proceeding drivers shall verify with the passenger that the route requires payment of a toll and that the passenger agrees to pay it.

(Code 1993, § 30-17; Code 2004, § 110-37; Code 2015, § 29-34; Ord. No. 2005-204-186, § 1, 9-12-2005; Ord. No. 2008-257-245, § 1, 10-27-2008; Ord. No. 2008-302-2009-3, § 1, 1-12-2009; Ord. No. 2013-2-10, § 1, 2-11-2013; Ord. No. 2015-112-121, § 1, 5-11-2015; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-35. Display of rates.

No taxicab shall be operated on the City streets in which there is not displayed at some conspicuous point inside of such vehicle, in full view of the passenger or person hiring such vehicle, the rates fixed, prescribed or established for use of any such vehicle. Such rates shall also be displayed on the exterior of each side of any taxicab in a manner to be approved by the Chief of Police.

(Code 1993, § 30-18; Code 2004, § 110-38; Code 2015, § 29-35)

Sec. 29-36. Rooflight required; failure to use.

Each taxicab shall be equipped with a light prescribed by the Chief of Police mounted to the roof of the taxicab

which shall indicate to the public that the vehicle is or is not under hire. The rooflight shall be lit when the vehicle is available to the public for hire. It shall be unlawful for a driver to fail, refuse or neglect to operate such rooflight or to operate such light in a misleading manner. Such light shall be inspected during such inspections as provided for in Section 29-30. Any vehicle found to have a defective rooflight shall not be operated as a taxicab until such defect is corrected.

(Code 1993, § 30-19; Code 2004, § 110-39; Code 2015, § 29-36)

Sec. 29-37. Solicitation of passengers.

No driver or any other person on behalf of a driver shall solicit patronage for any taxicab by word, signal or otherwise on any public street or public property in the City other than at such stands as may be designated and assigned in accordance with Section 29-38. However, this section shall not be construed to prevent a customer from hailing a taxicab.

(Code 1993, § 30-20; Code 2004, § 110-40; Code 2015, § 29-37)

Sec. 29-38. Stands.

(a) The Chief of Police shall designate such places in the City streets as taxicab stands as will, in the Chief's opinion, best serve the convenience of the public and shall prescribe the number of taxicabs that may be parked or stopped in each stand at any one time.

(b) Any taxicab for the operation of which a certificate of convenience and necessity has been issued shall have the privilege of parking or stopping in any taxicab stand when space is available therefor. It shall be unlawful for a driver to park or stop a taxicab at or near a taxicab stand when the number of taxicabs prescribed for the stand are parked or stopped in the stand. Only taxicabs may park at taxicab stands.

(Code 1993, § 30-21; Code 2004, § 110-41; Code 2015, § 29-38)

Sec. 29-39. Carrying more than one passenger.

No person other than the first person taken into a taxicab for transportation shall be allowed to enter the taxicab except upon the direction of the first person so taken into the cab, and the certificate holder shall not authorize or permit the driver of the taxicab or any other person nor shall the driver or any other person request the first person taken into a taxicab for transportation to allow another to be transported in the taxicab. Should the first person taken into a taxicab for transportation direct the driver to allow another to be transported in the taxicab, the first person so taken into the taxicab shall be liable for the payment of the fare for the transportation of all persons transported at the rates prescribed in this article, unless otherwise agreed upon by the driver and any one or all of the persons transported in the taxicab.

(Code 1993, § 30-22; Code 2004, § 110-42; Code 2015, § 29-39)

Sec. 29-40. Limitation on number of passengers.

It shall be unlawful for a driver to transport in a taxicab more than the number of passengers for which the vehicle is equipped with operable seatbelts that have been lawfully installed, which, in any event, shall not exceed six passengers.

(Code 1993, § 30-23; Code 2004, § 110-43; Code 2015, § 29-40)

Sec. 29-41. Transportation of passengers by most direct route; payment of toll charge.

Every driver of a taxicab shall transport each passenger from the place the passenger is received in such vehicle to the destination of the passenger by the most direct route, unless otherwise directed by the passenger.

(Code 1993, § 30-24; Code 2004, § 110-44; Code 2015, § 29-41; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-42. Nonpaying passengers.

No nonpaying passenger shall be transported with a paying passenger in any taxicab, except drivers in training and police officers engaged in the performance of any duty and unable to obtain other adequate means of transportation.

(Code 1993, § 30-25; Code 2004, § 110-45; Code 2015, § 29-42; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-43. Refusal of drivers to make trips; preference in response to service requests.

(a) No owner or driver of any taxicab shall refuse to transport any passenger to or from any part of the City or the Counties of Chesterfield, Hanover and Henrico unless it may be physically detrimental to such vehicle to do so or when it may endanger the driver or any of the occupants of the vehicle.

(b) Every certificate holder and driver shall give preference to calls or other requests for taxicab service in the order of their receipt.

(Code 1993, § 30-26; Code 2004, § 110-46; Code 2015, § 29-43; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-44. Receiving and discharging passengers.

Every taxicab shall receive and discharge passengers only at the right-hand curb of the street and only when at a full stop, except that passengers may enter or leave a taxicab from the left side at the left-hand curb of a one-way street.

(Code 1993, § 30-27; Code 2004, § 110-47; Code 2015, § 29-44)

Sec. 29-45. Drivers to remain with vehicles.

The driver of any taxicab shall remain in the vehicle or within five feet of the vehicle at all times while such vehicle is on the streets while under hire or parked at a taxicab stand, except while engaged at the request of the passenger hiring the vehicle in loading or unloading the baggage or other property of such passenger or in an emergency.

(Code 1993, § 30-28; Code 2004, § 110-48; Code 2015, § 29-45)

Sec. 29-46. Driving under influence of intoxicating beverage, narcotic or sedative substance.

It shall be unlawful for a driver to operate and drive a taxicab at any time while under the influence of any intoxicating beverage, narcotic, sedative, barbiturate, marijuana or other substance producing the effects of a narcotic or sedative or to be under such influence while on duty to provide taxicab service, whether or not actually operating or driving a taxicab, or to operate and drive a taxicab at any time with any alcoholic beverage in any quantity in such driver's personal possession or in the taxicab.

(Code 1993, § 30-29; Code 2004, § 110-49; Code 2015, § 29-46)

State law reference—Driving under influence of alcohol, etc., Code of Virginia, § 18.2-266 et seq.

Sec. 29-47. Use for lewd or indecent purpose or for acquisition of alcoholic beverage, narcotic, marijuana or controlled substance.

It shall be unlawful for a driver to permit a taxicab to:

(1) Be used for lewd or indecent purposes;

(2) Transport any person in a taxicab to any place for such purposes; or

(3) Knowingly acquire or transport for another in a taxicab any narcotics, marijuana or controlled substance.

(Code 1993, § 30-30; Code 2004, § 110-50; Code 2015, § 29-47)

Sec. 29-48. Prohibited weapons.

It shall be unlawful for a driver to operate and drive a taxicab at any time with dirk, bowie knife, nunchahka, nunchuck, shuriken, throwing star, oriental dart, blackjack, brass or metal knuckles or knife with a blade longer than three inches in length in such driver's personal possession or in the taxicab.

(Code 1993, § 30-31; Code 2004, § 110-51; Code 2015, § 29-48; Ord. No. 2004-209-189, § 2, 7-12-2004; Ord. No. 2015-198-205, § 1, 11-9-2015)

Cross reference—Offenses against public health and safety, § 19-290 et seq.

Sec. 29-49. Duty of driver to keep taxicab clean and sufficiently lighted.

It shall be unlawful for a taxicab driver to fail, refuse or neglect to keep any vehicle which the driver operates under this article clean and sufficiently lighted at night.

(Code 1993, § 30-32; Code 2004, § 110-52; Code 2015, § 29-49; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-50. Dress code for drivers.

Taxicab drivers shall be fully and neatly dressed and shall exhibit good personal hygiene without offensive body odor. All clothing shall be clean; shall be free of holes, rips or tears; and shall present a professional appearance. Clothing shall not exhibit any symbols, phrases or rendering that are obscene. Clothing shall comply with the following standards:

(1) Male drivers are required to wear long pants or professional length shorts, buttoned shirts with fold down collars and sleeves, and shoes. Pullover "polo" shirts, with fold-down collars, buttons and short sleeves, are permitted. Shoes shall be clean, closed-in and worn with socks. Hair, beards and moustaches must be neat, must be trimmed and must present a groomed appearance.

(2) Female drivers are required to wear long pants, professional length shorts, skirts, dresses (professional length), shirts or blouses, and shoes. Pullover "polo" shirts, with fold-down collars, buttons and short sleeves, are permitted. Shoes shall be clean, closed-in and worn with socks or stockings. Hair must be neat, must be trimmed and must present a groomed appearance.

(Code 1993, § 30-32.1; Code 2004, § 110-53; Code 2015, § 29-50)

Sec. 29-51. Time restrictions for drivers.

No certificate holder shall require a driver to and no driver shall drive a taxicab or remain on duty for such purpose longer than 13 hours in any 24-hour period.

(Code 1993, § 30-33; Code 2004, § 110-54; Code 2015, § 29-51)

Sec. 29-52. Hindering, retarding or interfering with transportation.

No person shall in any way intentionally hinder, retard or interfere with or cause to be hindered, retarded or interfered with the furnishing of transportation by any taxicab. Improper, misleading, false or unauthorized calls for taxicab service shall be prima facie evidence of the intention to hinder, retard or interfere with the proper operation of a taxicab and the furnishing of transportation thereby.

(Code 1993, § 30-34; Code 2004, § 110-55; Code 2015, § 29-52)

Sec. 29-53. Monitoring dispatches.

It shall be unlawful to monitor communications between a dispatcher and a taxicab or between two or more taxicabs for the purpose of responding to a call for taxicab service without the permission of the participants to the communication or of the company for whom they are employed.

(Code 1993, § 30-36; Code 2004, § 110-57; Code 2015, § 29-54; Ord. No. 2015-198-205, § 1, 11-9-2015)

Editor's note—Ord. No. 2015-198-205, § 2, adopted Nov. 9, 2015, repealed former § 29-53, which pertained to telephone listings for certificate holders, and derived from Code 1993, § 30-35; Code 2004, § 110-56.

Sec. 29-54. Lost and found property.

(a) It shall be unlawful for a driver to knowingly fail, refuse or neglect to preserve any property left in a taxicab by any passenger and to thereafter deliver it to the certificate holder.

(b) Each certificate holder shall carefully preserve all property left in a taxicab by any passenger and delivered to the certificate holder by a driver, which property shall be kept by the certificate holder. When the property shall have been identified and ownership established, a certificate holder shall make it available for pick up during normal business hours at the business location or as arranged between the certificate holder and the owner. Any property which shall not be called for within 30 days may be disposed of according to law.

(Code 1993, § 30-37; Code 2004, § 110-58; Code 2015, § 29-55; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-55. Application of traffic laws.

Every taxicab operated on the City streets shall be subject to all laws and ordinances regulating traffic applicable to other vehicles.

(Code 1993, § 30-38; Code 2004, § 110-59; Code 2015, § 29-56)

Sec. 29-56. Manifests; record of calls.

(a) The owner and the driver of a taxicab shall keep a manifest, which shall be a permanent record of the transportation of each passenger. Each manifest shall include the following:

(1) The name of the driver of the taxicab.

(2) The number of the taxicab approved by the Chief of Police.

(3) The address or place where the transportation of each passenger originated and the date and time thereof.

(4) The address or place and the date and time the transportation of each paying passenger terminated, which shall be recorded on the manifest upon the termination of each such transportation and before transportation of any other paying passenger has begun.

(5) The date and time each shift begins and ends.

(b) A manifest shall be carried by the driver in the taxicab at all times during the operation of such vehicle, and a separate manifest shall be kept for each day of operation of the vehicle, provided that a driver operating a taxicab at 12:00 midnight may continue to use the manifest bearing the date the work period commenced through the end of such work period. No later than 24 hours after the final entry on a manifest, it shall be delivered to the main office of the taxicab owner. The manifest, whether in possession of the driver or at the place from which the business is conducted or directed, shall be subject at all times to examination or inspection by the Chief of Police. Each manifest shall be kept and preserved for 12 months, and thereafter any manifest involved in any investigation made or being made by any police officer shall be kept and preserved for such length of time as the Chief shall require, upon written notice from the Chief to the certificate holder to that effect. No owner of a taxicab and no driver shall exhibit a manifest or be compelled to exhibit a manifest except to the Chief or to such person as the Chief may direct or upon court order.

(Code 1993, § 30-39; Code 2004, § 110-60; Code 2015, § 29-57)

Sec. 29-57. Public liability insurance required.

No owner shall be permitted to operate a taxicab or taxicab service within the City unless and until such owner shall have secured and deposited with the Chief of Police a certificate of insurance against public liability and property damage for each such vehicle so operated within the City, issued by a solvent insurance company licensed and duly authorized to execute such policy within the Commonwealth and to carry on business within the Commonwealth. Such certificate of insurance shall be issued to such owner on each taxicab owned or operated by such owner within the City and shall provide for the payment of any final judgment, not to exceed the sum of $100,000.00 for injury or death to any one person, the sum of $500,000.00 for total public liability for any one accident, the sum of $50,000.00 property damage in any accident and the sum of $10,000.00 for cargo liability, which may be rendered against such insured for or on account of damage to property for which such owner and drivers may be liable while operating or permitting to be operated such taxicab within the City or by reason of or growing out of the careless or negligent operation of such vehicle by such insured or an agent, drivers or employees within the City. Such certificate of insurance shall contain a clause obligating the company issuing the insurance to give ten days' written notice to the Chief of Police before cancellation thereof.

(Code 1993, § 30-40; Code 2004, § 110-61; Code 2015, § 29-58)

Secs. 29-58—29-89. Reserved.

DIVISION 2. DRIVER'S PERMIT AND CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Subdivision I. In General

Sec. 29-90. Reciprocity.

Upon a finding by the Chief of Police that the County of Henrico, County of Chesterfield, County of Hanover or any county or city contiguous to the City, Henrico County, Chesterfield County or Hanover County or any of them has adopted an ordinance containing provisions comparable to this article and providing for reciprocity with the City, vehicles for which a person holds a current and valid certificate of public convenience and necessity issued

by the County of Henrico, County of Chesterfield, County of Hanover or any county or city contiguous to the City, Henrico County, Chesterfield County or Hanover County or any of them and drivers who hold a current and valid permit issued by the County of Henrico, County of Chesterfield, or County of Hanover or any county or city contiguous to the City, Henrico County, Chesterfield County or Hanover County or any of them will be deemed to have complied with the certificate and permit requirements of this article and shall be deemed to possess comparable certificates or permits, as the case may be, issued by the City while such city or county certificates or permits remain in good standing. However, no certificate or permit issued by the County of Henrico, County of Chesterfield, County of Hanover or any county or city contiguous to the City, Henrico County, Chesterfield County or Hanover County or any of them shall be valid in the City where the holder of such certificate or permit has applied for and been refused a permit or certificate by the City or has had such permit or certificate revoked by the City under this article and is not eligible for issuance of a permit or certificate by the City.

(Code 1993, § 30-58; Code 2004, § 110-79; Code 2015, § 29-90)

Sec. 29-91. Procedure upon denial or revocation of certificate of public convenience and necessity or driver's permit.

If an application for a certificate of public convenience and necessity or a taxicab driver's permit is refused or if a certificate of public convenience and necessity or a driver's permit is revoked under this article, the Chief of Police shall notify in writing the applicant or certificate or permit holder of such decision, the reason therefor, and the right to a hearing if a request therefor is made in writing to the Chief within ten days of the notice. If a request for a hearing is not made within ten days of the notice, the decision of the Chief shall be final. The hearing shall be held by the Chief, and the applicant or certificate or permit holder shall have the right to present such person's own case or have Counsel do so. Within a reasonable time after the hearing, the Chief shall render a decision. If the Chief shall refuse to issue or shall revoke a certificate or permit after a hearing, the holder thereof may, within ten days after the date of such action, file with the Circuit Court of the City a petition, in writing, to review the action of the Chief, with a copy of such petition to be served on the Chief. The filing of the petition with the Circuit Court shall not postpone the effective date of the decision of the Chief except by order of the court.

(Code 1993, § 30-51; Code 2004, § 110-72; Code 2015, § 29-91)

Sec. 29-92. False statement in application for certificate of public convenience and necessity or driver's permit.

It shall be unlawful for any person to knowingly make or cause to be made, either directly or indirectly, any false statement on an application for a certificate of public convenience and necessity or an application for a driver's permit required under this article.

(Code 1993, § 30-52; Code 2004, § 110-73; Code 2015, § 29-92)

Secs. 29-93—29-112. Reserved.

Subdivision II. Driver's Permit

Sec. 29-113. Required.

No person shall drive a taxicab subject to the requirements of this article unless such person first attends a basic taxicab driver orientation program, approved by the Chief of Police, and obtains a driver's permit from the Chief; provided, however, such person may be issued a temporary or provisional permit for a period not to exceed six months during which period such person shall attend the basic taxicab driver orientation program. The initial driver's permit shall last for 12 months following its issuance and may be renewed thereafter annually. The Chief shall prescribe a form to be used in applying for a renewal. Each applicant for a driver's permit shall pay an initial application fee of $20.00 and upon each annual request for renewal of such permit shall pay a fee of $20.00. The fee for replacement of lost, stolen or damaged permits shall be $10.00. The permit shall be valid for the operation of only those vehicles subject to a certificate of public convenience and necessity issued under this article.

(Code 1993, § 30-41; Code 2004, § 110-62; Code 2015, § 29-113; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-114. Application.

(a) Application for a taxicab driver's permit shall show the following:

(1) The full name of the applicant.

(2) Present address.

(3) Age and place of birth.

(4) Places of previous address and employment for the past five years.

(5) Height, weight, color of eyes, color of hair, and sex.

(6) Whether or not the applicant is in good physical condition.

(7) Whether or not the applicant has good hearing and good eyesight.

(8) Whether or not the applicant is or has been, within the period of two years last past, addicted to the use of intoxicating liquors, drugs or other forms of narcotics and, if so, to what extent.

(9) Whether or not the applicant has ever been convicted of, pleaded guilty to, or entered a plea of nolo contendere to any larceny, robbery, assault, battery, crime of moral turpitude, felony, or operating a vehicle while under the influence of alcohol or drugs and, if so, such other information as may be required by the Chief of Police.

(10) The record of the applicant with respect to traffic offenses connected with the operation of motor vehicles and other offenses affecting the suitability of the applicant as a person who should be permitted to operate a taxicab, including violations of this article or the provisions of any other law in this Commonwealth governing the operation of taxicabs or other for-hire vehicles.

(11) Whether or not the applicant has previously been employed or licensed as a chauffeur and, if so, whether or not any license or permit issued for such purpose has ever been revoked or suspended for any reason.

(12) What experience, if any, the applicant has had in the operation of motor vehicles.

(13) The name and address of the owner of the taxicab to be operated by the applicant and, if different, the name and address of the company for whom the applicant will be driving.

(14) Whether or not the applicant is required to register with the Sex Offender and Crimes against Minors Registry or is listed on the U.S. Department of Justice's National Sex Offender Public Website, and, if so, under what name the applicant is registered or listed.

(b) Each applicant shall apply for a driver's permit in person and shall have fingerprints taken, which fingerprints shall constitute a part of the application. Each applicant shall have filed with the application two recent personal photographs of a size designated by the Chief of Police, one of which shall be attached to and shall become a part of the application and the other of which shall be attached to the permit, if issued, in such a manner that no other photograph may be substituted therefor without probability of detection.

(Code 1993, § 30-42; Code 2004, § 110-63; Code 2015, § 29-114; Ord. No. 2019-256, § 1, 10-14-2019)

Sec. 29-115. Investigation of applicant; issuance, contents and display.

(a) The Chief of Police, upon the filing of an application for a taxicab driver's permit as set forth in Section 29-114 and after notice to the applicant and opportunity afforded the applicant to be heard, shall promptly make an investigation of the matters stated in the application. If the Chief shall find, upon such investigation, that the applicant possesses the necessary qualifications on the basis of the information furnished in the application and the investigation thereof, the Chief shall issue a permit card, which shall bear a number and which shall contain the following:

(1) The name, business address and a photograph of the applicant;

(2) The name of the owner of the vehicles to be operated by the applicant; and

(3) If different, the name of the company for whom the applicant will be driving.

The driver shall post the permit card in full view of the passenger in any taxicab which is being operated or is in charge of the applicant. The permit shall be valid only for the operation of such vehicle owned by the person listed on such permit card and shall not be valid for operation of any other taxicab until such time as the driver has provided written notification, on a form provided by the Chief, and shall have had the name of the owner of such

other vehicle indicated on the permit.

(b) The possession by a person of a valid, current driver's license issued by the State Department of Motor Vehicles shall create a presumption that such person has the minimum physical and mental qualifications provided in this article for driving a taxicab. However, if the Chief has doubts as to an applicant's physical or mental capability, the Chief may require the applicant to submit to a physical examination by a licensed doctor of medicine and to verify by written report filed by such doctor the applicant's physical or mental capabilities.

(Code 1993, § 30-43; Code 2004, § 110-6; Code 2015, § 29-115)

Sec. 29-116. Denial.

Subject to Section 29-91, the Chief of Police shall refuse to issue a taxicab driver's permit to a person who has filed an application as set forth in Section 29-115 if, based upon the application and after investigation, the Chief finds any of the following:

(1) The applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere within the past three years to any felony.

(2) The applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere within the past 12 months to any larceny, assault, battery, crime of moral turpitude or illegal possession of controlled substances where such crime is other than a felony.

(3) The applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere within the past 12 months to operating a motor vehicle while under the influence of alcohol or drugs.

(4) The applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere within the past 12 months to three or more moving violations under the motor vehicle laws of this Commonwealth other than those involving operating a motor vehicle while under the influence of alcohol or drugs.

(5) The applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere within the past 12 months to three or more violations of this article or of any other local law in the Commonwealth governing the operation of taxicabs or other for-hire vehicles.

(6) The applicant has ever been convicted of, pleaded guilty to, or pleaded nolo contendere to any felony involving violence or to distribution of a controlled substance, or to any other felony or combination of felonies which indicates to the Chief of Police that the applicant is of unfit or unworthy character. The Chief shall consider the period of time that has passed since the conviction, plea, etc., as well as any other mitigating circumstances presented by the applicant.

(7) The applicant knowingly made or caused to be made, either directly or indirectly, any false statement on the application.

(8) The applicant otherwise lacks the following minimum physical or mental qualifications:

a. Drivers shall have no mental, nervous, organic or functional disease likely to interfere with safe driving.

b. Drivers shall have no loss or impairment of use of foot, leg, fingers, hand or arms or other structural defect or limitation likely to interfere with safe driving.

c. Drivers shall in any and all other respects satisfy the minimum mental and physical requirements for issuance of a driver's license by the State Department of Motor Vehicles.

(9) The applicant is less than 18 years of age.

(10) The applicant does not possess a valid and current driver's license issued by the State Department of Motor Vehicles.

(11) The applicant is prohibited by Code of Virginia, § 46.2-2011.33 from operating a taxicab for the transportation of passengers for remuneration over the highways of the Commonwealth.

(Code 1993, § 30-44; Code 2004, § 110-65; Code 2015, § 29-116; Ord. No. 2019-256, § 1, 10-14-2019)

Sec. 29-117. Revocation.

(a) Subject to Section 29-91, the permit of any driver of a taxicab shall immediately become void and shall be immediately surrendered upon the occurrence of any of the following:

(1) The driver is convicted of, pleads guilty to, or pleads nolo contendere to any felony;

(2) The driver is convicted of, pleads guilty to, or pleads nolo contendere to any larceny, assault, battery, crime of moral turpitude or illegal possession of controlled substances where such crime is other than a felony;

(3) The driver is convicted of, pleads guilty to, or pleads nolo contendere to operating a motor vehicle while under the influence of alcohol or drugs;

(4) The driver is convicted of, pleads guilty to, or pleads nolo contendere within a 12-month period to three or more moving violations under the motor vehicle laws of this commonwealth other than those involving operating a motor vehicle while under the influence of alcohol or drugs;

(5) The driver is convicted of, pleads guilty to, or pleads nolo contendere within a 12-month period to three or more violations of this article or of any other local law in this Commonwealth governing the operation of taxicabs or other for-hire vehicles;

(6) The Chief finds, after investigation, that the driver, within a three-year period, has on two or more occasions made a charge above or below the rates prescribed by Section 29-34;

(7) The Chief finds, after investigation, that the driver knowingly made or caused to be made, either directly or indirectly, any false statement on the application for a permit which was issued;

(8) The Chief finds, after investigation, that the driver no longer possesses the physical or mental qualifications prescribed in Section 29-116(8);

(9) The driver no longer possesses a valid and current driver's license issued by the State Department of Motor Vehicles; or

(10) The Chief finds, after investigation, that Code of Virginia, § 46.2-2011.33 prohibits the driver from operating a taxicab for the transportation of passengers for remuneration over the highways of the Commonwealth.

(b) All drivers and certificate holders shall notify the Chief of Police within 15 days of the occurrence of any event enumerated in subsection (a)(1), (2), (3), (4), (5), (9), or (10) of this section.

(Code 1993, § 30-45; Code 2004, § 110-66; Code 2015, § 29-117; Ord. No. 2015-198-205, § 1, 11-9-2015; Ord. No. 2019-256, § 1, 10-14-2019)

Sec. 29-118. Issuance after denial; reissuance after revocation.

Except as provided in Section 29-119, any person refused a taxicab driver's permit under Section 29-116 or whose driver's permit is revoked under Section 29-117 shall not be eligible for issuance of a new permit until such time as the grounds for refusal of a permit under Section 29-116 no longer apply. However, if a driver's permit is refused or revoked for knowingly making or causing to be made, either directly or indirectly, any false statement or for making a charge above or below the rates prescribed by Section 29-34 or if a driver's permit is revoked under Section 29-117(a)(3), (4) or (5), such driver shall not be eligible until 12 months from the date of refusal or revocation or from the date the Chief of Police was informed of the grounds supporting such revocation, whichever is later.

(Code 1993, § 30-46; Code 2004, § 110-67; Code 2015, § 29-118)

Sec. 29-119. Probationary permit.

(a) The Chief of Police may issue a probationary permit to an applicant for a taxicab driver's permit who fails to meet the standards set forth in Section 29-116(1) upon the recommendation of a court whose conviction of the applicant resulted in ineligibility for a permit under this article; provided, however, that a probationary permit shall not be issued to any such applicant who has, within 12 months of the date of application, been convicted at trial of a felony or has pleaded guilty or nolo contendere thereto.

(b) The Chief may issue a probationary permit to a driver, following revocation of such driver's permit under

Section 29-117(a)(1), upon the recommendation of a court whose conviction of the driver resulted in ineligibility for a permit under this article; provided, however, that a probationary permit shall not be issued to such driver sooner than 12 months from the date of revocation of the driver's permit.

(c) A probationary permit shall be effective until such time as the driver is eligible for reissuance under Section 29-140; provided, however, that a probationary permit may be revoked at any time by the Chief upon a finding of violation of any section of this article.

(Code 1993, § 30-47; Code 2004, § 110-68; Code 2015, § 29-119)

Secs. 29-120—29-136. Reserved.

Subdivision III. Certificate of Public Convenience and Necessity

Sec. 29-137. Generally.

(a) *Required*. It shall be unlawful to operate or cause to be operated within the City any taxicab unless a certificate of public convenience and necessity has been issued to the owner thereof by the Chief of Police covering the operation of such vehicle and unless the conditions, regulations and restrictions set forth and prescribed in this article have been complied with by such owner. An owner shall operate under only one certificate, and the certificate shall provide for the operation of a specified number of taxicabs. It shall be unlawful to operate or cause to be operated more vehicles than the number provided in the certificate. Additional vehicles may be operated by a certificate holder only upon written application on a form provided by the Chief of Police, approval of such application, payment of fees provided under this article and compliance with all other sections of this article.

(b) *Expiration; application and renewal.* The certificate of public convenience and necessity shall remain in effect until January 31 following its issuance and may be renewed thereafter annually. The Chief of Police shall prescribe a form to be used in applying for the certificate and a form to be used in applying for a renewal.

(c) *Interruption of use; lapse*. A certificate of public convenience and necessity shall lapse with respect to an individual vehicle or any one of the specified number of vehicles for which the certificate has been issued when the particular vehicle has not been used to provide taxicab service for 60 or more consecutive days.

(d) *Transferability*. A certificate of public convenience and necessity shall not be transferable.

(e) *Fees*. In addition to any other fees prescribed elsewhere in this Code, each applicant for a certificate of public convenience and necessity shall pay an application fee of $15.00 per vehicle listed in the certificate and upon each annual request for renewal of such certificate shall pay the same fee.

(f) *Limitation of number issued.* When it appears that it is in the public interest to limit the number of the owner's certificates issued by the Chief of Police, the Council may, if it finds after an advertised public hearing that it is in the public interest, prescribe the maximum number of vehicles for which such certificates are to be issued. Thereafter, no new certificates shall be issued until the total number of vehicles for which certificates are outstanding is less than the prescribed number, provided that renewal of an existing certificate shall not be regarded as a new certificate for purposes of this section.

(g) *Age and mileage limits of vehicles under certificate*. It shall be unlawful for a certificate holder to place into service a taxicab which either is more than 12 model years old or which is more than eight model years old and has more than 300,000 miles at the time it is placed into service.

(h) *Minimum specifications for vehicles.* It shall be unlawful for a certificate holder to place into service a taxicab unless the vehicle is a hardtop vehicle with a minimum of four doors and wheel size of at least 14 inches.

(Code 1993, § 30-12; Code 2004, § 110-32; Code 2015, § 29-137; Ord. No. 2015-198-205, § 1, 11-9-2015)

Sec. 29-138. Denial.

Subject to Section 29-91, the Chief of Police shall refuse to issue a certificate of public convenience and necessity pursuant to this article to a person who has filed an application therefor under this article if, after investigation, the Chief finds any of the following:

(1) The applicant's vehicles do not meet the standards set forth in Section 29-30, 29-31, 29-32, 29-35 or 29-36;

(2) The applicant fails to meet the requirements of Section 29-56 or 29-57;

(3) The applicant has been convicted of, pleads guilty to, or pleads nolo contendere within the past 12 months to three or more violations of this article or of any other local law in the Commonwealth governing the operation of taxicabs or other for-hire vehicles; or

(4) The applicant knowingly makes or causes to be made, either directly or indirectly, any false statement on the application.

(Code 1993, § 30-48; Code 2004, § 110-69; Code 2015, § 29-138)

Sec. 29-139. Revocation.

Subject to Section 29-91, the certificate of public convenience and necessity issued pursuant to this article shall immediately become void and shall be immediately surrendered upon the occurrence of any of the following:

(1) The Chief of Police determines, after investigation, that any or all of the vehicles subject to the certificate fails to comply with Section 29-30, 29-31, 29-32, 29-35 or 29-36 and the certificate holder, after notification of the violations, knowingly operates or permits to be operated such vehicle prior to correcting the violation;

(2) The Chief determines, after investigation, that the certificate holder is in violation of Section 29-56 or 29-57 and the certificate holder knowingly fails to comply with such section within 15 days after notification of such violation;

(3) The certificate holder is convicted of, pleads guilty to, or pleads nolo contendere within a 12-month period to three or more violations of this article or of any other local law in this Commonwealth governing the operation of taxicabs or other for-hire vehicles;

(4) The Chief finds, after investigation, that the certificate holder has knowingly made or caused to be made, either directly or indirectly, any false statement on the application for a permit which was issued to such certificate holder; or

(5) The Chief finds, after investigation, that a charge has been made above or below the rates prescribed by Section 29-34 with the knowledge, consent or permission of the certificate holder.

(Code 1993, § 30-49; Code 2004, § 110-70; Code 2015, § 29-139)

Sec. 29-140. Issuance after denial; reissuance after revocation.

Any person refused a certificate of public convenience and necessity under Section 29-138 or whose certificate of public convenience and necessity is revoked under Section 29-139 shall not be eligible for issuance of a new certificate until such time as the grounds for refusal of a certificate under Section 29-138 no longer apply. However, if a certificate is refused or revoked for knowingly making or causing to be made, either directly or indirectly, any false statement or for the fact that a charge was made above or below the rates prescribed by Section 29-34 with the knowledge, consent or permission of the certificate holder, such owner shall not be eligible until 12 months from the date of refusal or revocation.

(Code 1993, § 30-50; Code 2004, § 110-71; Code 2015, § 29-140)

Secs. 29-141—29-164. Reserved.

ARTICLE III. INTRAURBAN BUSES

Sec. 29-165. Applicability.

The operation in the City of motorbus passenger transportation for hire, except vehicles under the exclusive jurisdiction of the State Corporation Commission and sightseeing vehicles, shall be subject to the conditions, regulations and restrictions set forth in this article. However, motorbuses operated for the transportation of passengers by the City or by any company, corporation or entity which is owned by or is otherwise controlled by the City shall be exempt from the requirements of obtaining a permit and furnishing bond as required in Section 29-166, from the payment of a percentage of gross receipts or flat sum as provided in Section 29-168, from Section 29-169 regarding a system of accounts and bookkeeping, and from Section 29-191 concerning indemnification to

be provided for the City.

(Code 1993, § 30-71; Code 2004, § 110-111; Code 2015, § 29-165)

Sec. 29-166. Intent.

It is not intended by this article to grant or offer any franchise, but it is intended to regulate motorbus passenger transportation for hire in the City.

(Code 1993, § 30-72; Code 2004, § 110-112; Code 2015, § 29-166)

Sec. 29-167. Permit; agreement; bond.

(a) Before any person shall operate any motorbuses on the routes authorized in this article, such person shall file with the Director of Finance an application for a permit to do so and file with the City Clerk a written agreement, in the form approved by the City Attorney, that such person will conform to and comply with all sections of this article. No permit shall be granted to any person to operate under this article unless such person shall undertake to operate on all such routes.

(b) Upon receipt of the application and the filing of the agreement, the Director of Finance shall issue a permit, in the form approved by the City Attorney, authorizing the applicant to operate buses as provided for in this article, upon the filing with the Director of Finance a bond, with surety approved by the City Attorney, in the sum of $30,000.00. The bond shall be conditioned that the applicant will conform to and comply with the conditions and sections of this article and will indemnify and save harmless the City or any other person from any and all claims, demands or judgments on account of injuries or damages occasioned by the negligence of such applicant.

(c) Upon the filing and approval of such bond, the applicant shall be authorized to operate buses as provided in this article. Such bond shall at all times be kept in force and effect for the full amount of $30,000.00. If suit shall be brought against the City, either independently or jointly with the operator under this article, such operator, upon notice to such operator by the City, shall defend the City in any such suit at the cost of such operator. If a final judgment is obtained against the City, either independently or jointly with such operator, the operator shall pay the judgment with all costs and hold the City harmless therefrom.

(Code 1993, § 30-73; Code 2004, § 110-113; Code 2015, § 29-167)

Sec. 29-168. Operator's examination and permit required.

No person shall operate any vehicle under this article until such person shall have appeared before the Chief of Police and passed an examination evidencing the ability to operate such vehicle and knowledge of the traffic laws of the State and of the City and shall have obtained a permit, in writing, from the Chief to that effect. However, the Chief shall not approve any application for such permit from any person who is under the age of 18 years.

(Code 1993, § 30-74; Code 2004, § 110-114; Code 2015, § 29-168)

Sec. 29-169. Payment for use of streets.

(a) Any person operating under this article shall pay annually into the City treasury for the use of the streets an amount of $1.00, which payments shall be due on January 1 in each year. All of the payments to be made under this section shall be a lien upon the vehicles and property of such operator, prior and superior to any other lien or encumbrance thereon. Should any such operator fail to make any such payment within 30 days after the payment shall become due and payable, the operator shall be liable to a fine of not less than $5.00 nor more than $100.00, and each day's failure shall be a separate offense. Should the operator continue for 60 days in default as to any such payment, the Director of Finance may require and order the operator to cease running or operating vehicles upon the City streets or any part thereof until such payment shall have been made to the City. Should any operator, after notice of any such requirement by the City and while so continuing in default, run or operate any vehicles on the City streets, such operator shall be liable to an additional fine of not less than $5.00 nor more than $100.00 for each vehicle so operated, and each day's operation of the vehicle shall constitute a separate offense.

(b) The payment of such sums for the use of the streets shall be in lieu of all City license taxes, but it is expressly stipulated that such payments shall not affect the liability of the operator for general taxation at the rate assessed on the property of other persons in the City, which liability for general taxation is hereby expressly recognized and shall continue during the whole period for which this article remains in force.

(Code 1993, § 30-75; Code 2004, § 110-115; Code 2015, § 29-169)

Sec. 29-170. System of accounts and bookkeeping.

A standard form of accounts and system of bookkeeping, to be approved by the Director of Finance, shall be kept and observed by any person operating under this article, insofar as the system of accounts and bookkeeping applies to the motorbus transportation, and the Director of Finance or some accountant duly authorized by the Council shall have the right and privilege at any time to examine the books of such person in order to verify or, if need be, to correct the books or any returns and reports made by such person therefrom.

(Code 1993, § 30-76; Code 2004, § 110-116; Code 2015, § 29-170)

Sec. 29-171. Minimum seating capacity; number of passengers received for transportation.

No intraurban motorbus of a seating capacity of less than 15 passengers shall be operated on the City streets in service under this article. The number of passengers received for transportation shall be limited to such seating capacity, plus such additional number as may be authorized by the Chief of Police.

(Code 1993, § 30-77; Code 2004, § 110-117; Code 2015, § 29-171)

Sec. 29-172. Designation of routes generally.

Except as otherwise provided, the operation of any motorbus system of passenger transportation under this article shall be along such routes as are or shall be designated by the operator of the motorbus system of passenger transportation and subject to this article.

(Code 1993, § 30-79; Code 2004, § 110-119; Code 2015, § 29-172; Ord. No. 2013-144-158, § 1, 9-9-2013)

Sec. 29-173. Regular operation over authorized routes.

Any person operating under this article shall regularly operate vehicles over the routes authorized as provided in this article, unless prevented from doing so by an act of God or other causes not reasonably preventable. Should it be necessary in the prosecution of any public work to stop temporarily the operation of such vehicles, it may be done on the order of the Chief of Police, and in such case the City shall not be liable and such person shall be held free from all claims of the City for damages or penalties by reason of the delay or suspension of the business or traffic.

(Code 1993, § 30-80; Code 2004, § 110-120; Code 2015, § 29-173)

Sec. 29-174. Routes for school buses; applicability of article to school buses.

Intraurban motorbuses used for the exclusive transportation of children attending public and private schools in going to and returning therefrom shall be operated over routes authorized by the Chief of Police and approved by the Chief Administrative Officer. All of this article shall in all respects apply to the operation of such buses over the routes so prescribed and the use of the streets for such purpose.

(Code 1993, § 30-81; Code 2004, § 110-121; Code 2015, § 29-174; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 29-175. Changes in routes.

The right to continue to operate on intraurban bus routes provided shall be upon the condition that the operator of the motorbus system of passenger transportation shall annually review any needed changes of routes or any extension thereof, and the routes shall be made and established with all reasonable dispatch and diligence.

(Code 1993, § 30-82; Code 2004, § 110-122; Code 2015, § 29-175; Ord. No. 2013-144-158, § 1, 9-9-2013)

Sec. 29-176. Deviation from authorized routes.

No deviation from routes authorized as provided in this article shall be practiced or permitted. However, if any authorized route shall be obstructed on any block, drivers of motorbuses may, unless the Chief of Police shall otherwise direct, make a detour by the nearest streets around the blocks on which such obstruction exists, returning to the prescribed route as soon as the obstruction shall have been passed.

(Code 1993, § 30-83; Code 2004, § 110-123; Code 2015, § 29-176)

Sec. 29-177. Operation on unauthorized route.

It shall be unlawful for the driver of any motorbus operated under this article to operate such vehicle on any route or street other than the route or street which may be authorized as provided in this article.

(Code 1993, § 30-84; Code 2004, § 110-124; Code 2015, § 29-177)

Sec. 29-178. Temporary extensions and adjustments of existing school bus routes.

The Chief of Police, for the purpose of ensuring adequate service for the transportation of pupils to and from the public schools of the City, may, for a period not exceeding 90 days, authorize extensions of or adjustments of existing bus routes.

(Code 1993, § 30-85; Code 2004, § 110-125; Code 2015, § 29-178)

Sec. 29-179. Temporary modification of routes.

The Chief of Police is hereby empowered in all cases of fire, accident, parades, obstructions, breaks in or repairs to streets or any other emergency which requires such action to temporarily modify the routes provided for in this article and require the use of such other streets as, in the Chief's opinion, the public convenience and safety may require, until the emergency calling for such action shall have been terminated.

(Code 1993, § 30-86; Code 2004, § 110-126; Code 2015, § 29-179)

Sec. 29-180. Maintenance of schedules.

Any person operating under this article shall operate and maintain regular schedules so as to render reasonable service on each route served by the business operated by such person, provided that the City Council may, from time to time, require service of such person on such schedules as public needs may demand.

(Code 1993, § 30-87; Code 2004, § 110-127; Code 2015, § 29-180)

Sec. 29-181. Condition of vehicles.

Any person operating under this article shall, at all times, keep all buses or vehicles operated by such person clean, sufficiently ventilated, efficiently lighted at night and adequately heated with safe and convenient appliances whenever the weather is such that heating is essential to the comfort of passengers.

(Code 1993, § 30-88; Code 2004, § 110-128; Code 2015, § 29-181)

Sec. 29-182. Standards of maintenance and operation.

Any person operating under this article shall at all times maintain and operate the transportation system in accordance with the most approved methods and by use of the most approved means of surface transportation, without and otherwise than by the construction or use of railway tracks or the erection of poles and wires, and shall maintain all of the physical property used and operated at the highest practical standard of efficiency.

(Code 1993, § 30-89; Code 2004, § 110-129; Code 2015, § 29-182)

Sec. 29-183. Observance of signs and orders of police officers.

All vehicles operated under this article shall be made to observe and comply with all orders given by word or sign by City police officers and with all signs and directions placed in the streets by the Chief of Police.

(Code 1993, § 30-90; Code 2004, § 110-130; Code 2015, § 29-183)

Sec. 29-184. Stops.

All vehicles operated under this article shall stop for the purpose of taking on or letting off passengers at such points or places as shall be designated by the Chief of Police. All such points or places shall be clearly marked by suitable signs, to be placed and maintained at the cost and expense of the City.

(Code 1993, § 30-91; Code 2004, § 110-131; Code 2015, § 29-184)

Sec. 29-185. Money or property left in vehicles.

The person in charge of any vehicle operated under this article shall carefully preserve any money or other property left in such vehicle by any passenger, and the money or other property shall be promptly deposited with the person owning or operating such vehicle, to be kept at some convenient point within the City, where the money

or other property may be called for by the owner. When such money or property shall have been identified and ownership established, the money or property shall be promptly delivered to such owner. Any property, whether money or other thing, which shall not be called for within three months shall be disposed of according to law.

(Code 1993, § 30-92; Code 2004, § 110-132; Code 2015, § 29-185)

Sec. 29-186. Lights in interior.

No motor vehicle operating under this article shall be operated between one-half hour after sunset and one-half hour before sunrise, except in an emergency, unless sufficient light is provided to adequately light the whole of the interior of such vehicle.

(Code 1993, § 30-93; Code 2004, § 110-133; Code 2015, § 29-186)

Sec. 29-187. Prohibited conduct of passengers.

(a) It shall be unlawful for any passenger, while aboard any vehicle operating under this article, to:

(1) Smoke or have in such passenger's possession a lighted cigar, cigarette or pipe while such vehicle is being operated;

(2) Play any radio, tape recorder or other similar instrument, except when such instrument is connected to an earphone or similar device that limits the sound to the individual user;

(3) Carry or be accompanied by live animals of any kind, except a guide dog properly harnessed and accompanying a blind passenger;

(4) Consume any food or drink; or

(5) Utter any profanity or obscenity.

(b) Any passenger who engages in any such act shall, upon conviction, be guilty of a Class 3 misdemeanor and shall also forfeit any right to remain in the vehicle. The driver of the vehicle shall have the right to order such passenger to leave the vehicle. Any passenger who refuses to leave upon being so ordered shall, upon conviction, be guilty of trespass, a Class 1 misdemeanor.

(Code 1993, § 30-94; Code 2004, § 110-134; Code 2015, § 29-187)

Sec. 29-188. Maintenance of vehicles and equipment.

All vehicles and the equipment used in connection therewith operated under this article shall at all times be kept in proper physical condition to the satisfaction of the Chief of Police so as to render safe, adequate and proper public service and so as not to be a menace to the safety of the occupants or of the general public.

(Code 1993, § 30-95; Code 2004, § 110-135; Code 2015, § 29-188)

Sec. 29-189. Fares.

(a) *Generally*. The fare charged on the routes authorized pursuant to the provisions of Section 29-172 shall be as follows, except as otherwise provided in this section:

(1) Cash.

a. Local routes: $1.50.

b. Commuter express routes: $2.00.

c. Senior: $0.75.

d. Disability (incapacitated): $0.75.

(2) Special services (fare), one-way transportation to or from a civic, cultural or sporting event, or a like activity (tickets and passes not to be honored for such transportation): $2.50.

(3) 19 Pemberton Road Bus: $2.00.

(4) CARE, one way.

a. When required by the Americans with Disabilities Act of 1990, 42 USC 12101—12213 (2000):

$3.00.

b. When not required by the Americans with Disabilities Act of 1990, 42 USC 12101—12213 (2000): $6.00.

(5) Extended Express: $2.75.

Any citizen eligible for Medicare and who has been issued a Medicare card, upon presentment of such Medicare card and a government-issued or transit operator issued photo identification card, or any other person 65 years of age, or older, upon proof of age satisfactory to the transit company, is eligible for the senior fare.

Any individual who by reason of illness, injury, age, congenital malfunction or other permanent or temporary incapacity or disability, including those who are non-ambulatory, wheelchair bound and those with semi-ambulatory capabilities, who are unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected is eligible for the disability fare upon presentment of a government-issued or transit operator-issued photo identification card.

Qualification for such reduced fare will be subject to regulations established by the transit operator, including the issuance of temporary and permanent identification materials.

Each passenger paying a fare as provided for herein may carry in the buses operated under this article, free of charge, one child under five years of age, but where two or more children under five years of age accompany one passenger, the fare to be paid for such children shall be at the rate of two children for one full fare, and such children shall be entitled to all the privileges of a passenger paying the regular fare.

All members of the fire and emergency services department and police department of the City, while in uniform or wearing their official badges, shall be permitted to ride upon buses operated under this article without charge or payment of fare therefor. Police officers and firefighters whose regular official duties are such that they are performed while such officials are not in uniform or wearing their official badges, upon application to owner of such buses operated under this article, signed by the heads of their departments, respectively, shall be furnished free of charge fare cards or passes for the use of such officials while on official business.

(b) *Fare passes.* A fare pass program may be established for routes authorized pursuant to the provisions of Section 29-172 whereby daily, weekly, and monthly fare passes may be issued for all local and express routes and unlimited use passes may be issued to apply during special events set forth in this subsection. Fares under any such fare pass program shall be as follows:

(1) Local service, unlimited use:

a. One day: $3.50.

b. Seven days: $17.50.

c. 30 days: $60.00.

(2) Express service, unlimited use:

a. One day: $4.50.

b. Seven days: $22.50.

c. 30 days: $80.00.

(3) 19 Pemberton, unlimited use:

a. One day: $4.50.

b. Seven days: $22.50.

c. 30 days: $80.00.

(4) Special event pass, unlimited use:

a. Union Cycliste Internationale World Championships, 11 days: $35.00.

(5) Senior, Medicare, or minor (six to 18), unlimited use:

a. One day: $1.75.

b. Seven days: $8.75.

c. 30 days: $35.00.

(6) One ride plus:

a. When two different bus trips needed to reach destination: $1.75.

(c) *Special promotions.* From time to time a transit company operating buses under this article may provide for special promotion passes at a rate of not less than 50 percent of the cash fare as set forth in subsection (a) of this section. The term "special promotion" shall mean an event which is designed to promote the civic, cultural, or economic growth of the City.

Contracting. Notwithstanding other provisions contained in this article, a transit company operating buses under provisions of this article is hereby authorized to contract with any person to provide service over any regular routes, currently approved by the council, in order for such person to promote or advertise a legitimate business or profession, subject to the following conditions:

(1) In addition to promotional painting or advertising that any bus or buses used in such promotional enterprise may display, the bus or buses shall carry the route designation or designations as displayed on all regularly operated buses of such transit company;

(2) No such promotional bus or buses shall deviate from the regular routes prescribed by the council;

(3) Fares for riders shall conform to the fare schedules set forth in this article; provided, however, that a lowered fare may be charged, or no fare charged, on such promotional bus or buses, but any such change in fare must be clearly marked on each such promotional bus; and

(4) Any bus or buses transporting riders for a lowered fare, or for no fare, shall operate over a route or routes selected by lot by any transit company operating buses under the provisions of this article.

Promotional routes. Nothing contained in this section shall prohibit a transit company operating buses under this article from establishing its own promotional routes at a lower fare or at no fare provided any promotional bus or buses be clearly marked to indicate such change from regular fare schedules.

(d) *Transit company promotions.* From time to time, in order to promote ridership on a new or modified route, a transit company operating buses under this article may make a one-time reduction in the cash fare or offer a one-time free fare for no more than one 48-hour period following the commencement of operations over such new or modified route. Notwithstanding the preceding sentence, the first seven days that a bus company operating buses under this article operates a bus rapid transit system in the City in 2018, such transit company may offer free fares as a promotion.

(e) *Convention pass.* From time to time, a transit company operating buses under this article may provide for the sale of convention passes that may be used for unlimited rides during the term of the convention for which the pass is sold. The user must present the pass and delegate badge or similar identification in order to be permitted to ride the bus. A convention pass shall only be available as a part of a convention registration package, and the cost of such convention pass shall vary and be computed on the period of time such convention shall be in session.

(f) *CARE paratransit service.* CARE paratransit service shall be provided to the extent required pursuant to the Americans with Disabilities Act of 1990, 42 USC 12101—12213 (2000). CARE paratransit service not required pursuant to the Americans with Disabilities Act of 1990, 42 USC 12101—12213 (2000), shall be provided only from 6:00 a.m. until 8:00 p.m., Monday through Sunday. Notwithstanding any other provision of this section to the contrary, a transit company operating buses pursuant to this article shall neither charge nor collect any fare from qualified CARE riders who reside in the City of Richmond for transportation within the mandatory Americans with Disabilities Act of 1990, 42 USC 12101—12213 (2000), service area of the City of Richmond on fixed routes on which such transit company provides service.

(g) *Fare enforcement inspectors.* A transit company operating any form of mass transit pursuant to this article may appoint fare enforcement inspectors and establish the qualifications for their appointment. Fare enforcement inspectors shall have the power to:

(1) Request patrons at transit boarding locations or on transit vehicles to show proof of payment of the

applicable fare;

(2) Inspect the proof of payment for validity;

(3) Issue a civil summons for violations authorized by Code of Virginia, § 18.2-160.3;

(4) Assist with crowd control while on a transit vehicle or at a transit boarding location; and

(5) Perform such other customer service and safety duties as may be assigned by the transit company.

(h) *Failure to produce proof of payment; penalty.* It shall be unlawful for any person to board or ride a transit operation operated by a transit company operating any form of transit pursuant to this article when he fails or refuses to pay the applicable fare or refuses to produce valid proof of payment of the fare upon request of a fare enforcement inspector. Any person who violates this section shall be liable for a civil penalty of not more than $100.00 to be deposited into the City treasury. Any person summoned for a violation may make an appearance in person or in writing by mail to the Department of Finance, or the designee of the Department of Finance, as specified on the summons prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the violation charged. The fare enforcement inspector shall inform such persons of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be brought by the transit company and tried as a civil case in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a violation authorized by Code of Virginia, § 18.2-160.3, it shall be the burden of the transit company to show the liability of the violator by a preponderance of the evidence. The penalty for failure to pay the established fare on transit properties covered by another provision of law shall be governed by that provision and not by Code of Virginia, § 18.2-160.3. The penalty imposed by this section shall not apply to a law enforcement officer while such officer is engaged in the performance of such officer's official duties.

(Code 1993, § 30-96; Code 2004, § 110-136; Code 2015, § 29-189; Ord. No. 2004-210-192, § 1, 7-12-2004; Ord. No. 2004-264-249, § 1, 9-27-2004; Ord. No. 2005-36-28, § 1, 3-29-2005; Ord. No. 2006-169-180, § 1, 6-26-2006; Ord. No. 2010-115-114, § 1, 6-28-2010; Ord. No. 2013-142-182, § 1, 10-14-2013; Ord. No. 2013-240-221, § 1, 12-9-2013; Ord. No. 2013-252-2014-1, § 1, 1-6-2014; Ord. No. 2015-105-115, § 1, 5-26-2015; Ord. No. 2015-217-211, § 1, 11-9-2015; Ord. No. 2016-307, § 1, 1-23-2017; Ord. No. 2018-053, § 1, 3-26-2018; Ord. No. 2018-151, § 1, 5-29-2018)

Sec. 29-190. Maintenance of efficient service.

Adequate and efficient public service at the rates specified in this article or as the rates may be prescribed by the City Council shall at all times be maintained by any person operating under this article.

(Code 1993, § 30-97; Code 2004, § 110-137; Code 2015, § 29-190)

Sec. 29-191. Indemnification of City.

Any person operating under this article shall, by acceptance in writing of the terms and conditions of this article, agree to keep and hold the City free and harmless from liability for all damages that may accrue to such person or to any person on account of injury or damage to person or property, directly or indirectly, growing out of the construction of works or out of the operation of vehicles under this article, wherever the City is liable therefor. If suit shall be brought against the City, either independently or jointly with such person on account thereof, such person, upon notice by the City, shall defend the City in such suit. If a judgment is obtained against the City, either independently or jointly with such person on account of the acts or omissions of such person, such person shall pay the judgment, with all costs, and hold the City harmless therefrom.

(Code 1993, § 30-98; Code 2004, § 110-138; Code 2015, § 29-191)

Sec. 29-192. Motive power.

The power by which the system of passenger transportation authorized under this article shall be operated shall be by gasoline motor or such other motor power or combination of power, except steam, as may be authorized or required from time to time by the City Council.

(Code 1993, § 30-99; Code 2004, § 110-139; Code 2015, § 29-192)

Sec. 29-193. No vested rights in streets.

No person operating under this article shall acquire any vested rights in the City streets or any vested right to use the City streets.

(Code 1993, § 30-100; Code 2004, § 110-140; Code 2015, § 29-193)

Sec. 29-194. Reservation of Council's rights.

The City Council reserves its rights as expressed in this article to change routes, require extensions, fix fares and regulate service, but recognizes that in its action on any of such matters the ability of the person operating under this article to earn a reasonable return on the fair value of the property used in this service should be respected.

(Code 1993, § 30-101; Code 2004, § 110-141; Code 2015, § 29-194)

Sec. 29-195. Length and width of buses.

Motor vehicles operated on the City streets under this article may have a total outside width up to but not exceeding 102 inches and a total length up to but not exceeding 40 feet. However, whenever passenger buses exceeding a total outside width in excess of 96 inches or a total length in excess of 35 feet are to be used, permits therefor must be obtained from the Chief of Police who in such permits shall designate the routes upon which passenger buses of such dimensions may be used.

(Code 1993, § 30-102; Code 2004, § 110-142; Code 2015, § 29-195)

Sec. 29-196. Special permit to operate.

Whenever the holder of a permit issued under Section 29-167 fails for any cause to provide motorbus passenger transportation over the routes prescribed in this article, the Chief Administrative Officer is authorized to issue permits for specific periods of time to any persons applying therefor who are the owners of passenger-carrying motor vehicles and who produce proof satisfactory to the Chief Administrative Officer of such ownership to provide such service through the operation of the vehicles over such routes or any part thereof, upon the following terms and conditions:

(1) No other persons shall operate or shall be permitted to operate such vehicles for that purpose, and such persons shall be bound by, shall observe and shall comply with all of the applicable sections of this Code, except Sections 29-166 through 29-173, 29-186, 29-189, 29-192 and 29-197.

(2) The fare charged for transporting each passenger shall not exceed $0.25 for each one-way trip from the point of origin to the point of destination along any route, and the rate of fare charged shall be posted in or on each vehicle so used in such manner and place as shall be prescribed by the Chief Administrative Officer.

(3) No license tax shall be assessed or required to be paid for such use of the streets.

(4) Every such person shall obtain a liability insurance contract of an insurance company authorized to do business in the State to indemnify, reimburse and save harmless any other person from all claims, demands or judgments on account of injuries or damages occasioned by the negligence of such person in so using the streets. The contract shall be limited to not less than $5,000.00 to cover the injury to or death of one person and not less than $10,000.00 to cover the injury to or death of more than one person in any one accident, together with property damage coverage of not less than $5,000.00. A certificate to the effect that such insurance is in effect shall be obtained from such insurance company and filed in the Office of the Director of Finance.

(5) The permit issued by the Chief Administrative Officer shall expire and the privileges granted thereunder shall cease when the time for which it was issued shall expire. The permit may be revoked at any time upon the failure, refusal or neglect of the person to whom it is issued to observe and comply with the applicable provisions designated in subsection (1) of this section or to observe and comply with Chapter 27 or the rules and regulations promulgated by the Chief of Police pursuant to authority conferred by law or upon the conviction of such person for the commission of a felony or serious misdemeanor. Upon the revocation of the permit, the holder thereof shall no longer use the streets for such purpose.

(6) The carriers lawfully authorized to use the City streets for the transportation of passengers for compensation to and from points within and without the City from and to points without and within the

City may take on passengers within the City and discharge them within the City whenever the holder of the permit provided for in Section 29-167 fails for any cause to provide such motorbus transportation.

(7) Whenever the holder of the permit provided for in Section 29-167 again provides the passenger transportation provided for and required by this article, all privileges granted by this section shall terminate, and the uses permitted to be made of the streets by this section shall cease.

(Code 1993, § 30-103; Code 2004, § 110-143; Code 2015, § 29-196; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 29-197. Mandatory compliance; penalty; lien for debts, penalties or forfeitures.

All of the sections of this article imposing obligations or requirements on any person operating under this article shall be deemed to be mandatory. Any person violating any obligation or requirement of this article, where no special penalty is prescribed, shall, upon conviction thereof, except as otherwise provided, be punished as provided in Section 1-16. All debts, penalties or forfeitures inuring to the City under this article shall constitute a lien upon the property of such person prior to all other debts, liens or obligations thereof, whether created before or after the creation of any lien in favor of any person.

(Code 1993, § 30-104; Code 2004, § 110-144; Code 2015, § 29-197)

Chapter 30

ZONING*

***Charter reference**—Planning, zoning and subdivision control, Ch. 17.

Cross reference—Any ordinance relating to the zoning map or zoning or rezoning specific property saved from repeal, § 1-4(14); Department of Planning and Development Review, § 2-455 et seq.; buildings and building regulations, Ch. 5; floodplain management, erosion and sediment control, and drainage, Ch. 14; subdivision of land, Ch. 25.

State law reference—Planning, subdivision of land and zoning, Code of Virginia, § 15.2-2200 et seq.; zoning, Code of Virginia, § 15.2-2280 et seq.

ARTICLE I. IN GENERAL

Sec. 30-100. Purpose.

The purpose of this chapter is to adopt a comprehensive zoning plan designed to:

(1) Lessen congestion in streets;

(2) Secure safety from fire, flood, panic and other danger;

(3) Promote health, sanitation and general welfare;

(4) Provide for adequate light, air and convenience of access;

(5) Prevent the overcrowding of land;

(6) Avoid undue concentration of population;

(7) Facilitate the creation of a convenient, attractive and harmonious community;

(8) Protect against destruction of or encroachment upon historic areas;

(9) Encourage economic development activities that provide desirable employment and enlarge the tax base; and

(10) Expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements pursuant to and in accordance with the applicable sections of Code of Virginia, Title 15.2, Ch. 22, Art. 7 (Code of Virginia, § 15.2-2280 et seq.).

(Code 1993, § 32-100; Code 2004, § 114-100; Code 2015, § 30-101)

Sec. 30-101. Duties of Department of Planning and Development Review with regard to mailing of notices.

Whenever this chapter or general law requires that notice of a public hearing concerning a matter to which this chapter applies be sent by mail to a property owner, the Department of Planning and Development Review shall send by mail such notice.

(Code 2015, § 30-101; Ord. No. 2019-085, § 1, 4-22-2019)

ARTICLE II. ESTABLISHMENT OF DISTRICTS; OFFICIAL ZONING MAP; INTERPRETATION OF BOUNDARIES

Sec. 30-200. Establishment of districts; official zoning map.

In order to accomplish the purpose of this chapter, the City is hereby divided into districts, as provided and as shown on the official zoning map, consisting of data maintained within the City's Geographic Information System, which data shall be known as the "Zoning District Map 2008," and which, together with all explanatory matter contained thereon, is hereby declared to be a part of this chapter.

(Code 1993, § 32-200; Code 2004, § 114-200; Code 2015, § 30-200; Ord. No. 2008-109-90, § 1, 5-27-2008)

Sec. 30-210. Preservation of official zoning map and amendments.

The Director of Planning and Development Review shall see that each amendment to the map is recorded within the City's Geographic Information System as soon as practicable after the effective date of the ordinance adopting such amendment and that the City's Geographic Information System shall identify the official action by which such amendment was made, the date of such action and the area involved. It shall be unlawful for any person to make any change in the official zoning map except by authorization of the Director of Planning and Development Review in accordance with the procedures and requirements set forth in this chapter.

(Code 1993, § 32-210; Code 2004, § 114-210; Code 2015, § 30-210; Ord. No. 2008-109-90, § 1, 5-27-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-220. Copies of official zoning map.

A printed copy of the "Zoning District Map 2008" shall be retained in the Office of the City Clerk and in the Department of Planning and Development Review. The Director of Planning and Development Review shall cause such printed copies to be updated periodically as needed.

(Code 1993, § 32-220; Code 2004, § 114-220; Code 2015, § 30-220; Ord. No. 2008-109-90, § 3, 5-27-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-230. Interpretation of district boundaries.

Whenever uncertainty exists with respect to the boundary lines of districts shown on the official zoning map or any copy thereof, the rules set out in Sections 30-230.1 through 30-230.8 shall apply.

(Code 1993, § 32-230; Code 2004, § 114-230; Code 2015, § 30-230)

Sec. 30-230.1. Discrepancy between official zoning map and copy.

Where a discrepancy exists between a district boundary shown on the official zoning map and that which is shown on any copy thereof, the official zoning map shall be the final authority.

(Code 1993, § 32-230.1; Code 2004, § 114-230.1; Code 2015, § 30-230.1)

Sec. 30-230.2. Discrepancy between official zoning map and ordinance.

Where a discrepancy exists between a district boundary shown on the official zoning map and that which is described in the text of an ordinance establishing such boundary, the text of the ordinance shall be the final authority.

(Code 1993, § 32-230.2; Code 2004, § 114-230.2; Code 2015, § 30-230.2)

Sec. 30-230.3. Centerlines as boundaries.

Notwithstanding Section 30-230.2, zoning district boundaries which appear to follow centerlines of streets, alleys, easements, railroad rights-of-way, waterways and similar features shall be construed as following such centerlines.

(Code 1993, § 32-230.3; Code 2004, § 114-230.3; Code 2015, § 30-230.3)

Sec. 30-230.4. Property and other lines as boundaries.

Where zoning district boundaries appear to follow street, lot, property or other lines of similar nature, they shall be construed as following such lines. However, if a street or alley is closed by the City where the district boundary is indicated as other than the centerline of such street or alley, it shall be construed as having been at the centerline.

(Code 1993, § 32-230.4; Code 2004, § 114-230.4; Code 2015, § 30-230.4)

Sec. 30-230.5. Parallels, perpendiculars and extensions as boundaries.

Where zoning district boundaries appear parallel or perpendicular to or appear as extensions of centerlines, property lines or other features, they shall be so construed.

(Code 1993, § 32-230.5; Code 2004, § 114-230.5; Code 2015, § 30-230.5)

Sec. 30-230.6. Measurement of boundaries.

Where zoning district boundaries do not appear to follow centerlines or street, lot, property or other lines of

similar nature or do not appear to be extensions of any such lines or are not described within any ordinance, the location of the boundaries shall be determined by measurement of the distances shown on the official zoning map according to the scale indicated thereon.

(Code 1993, § 32-230.6; Code 2004, § 114-230.6; Code 2015, § 30-230.6)

Sec. 30-230.7. Interpretations by Board of Zoning Appeals.

Where the street layout on the ground varies from the street layout a shown on the official zoning map, the district boundaries shall be interpreted by the Board of Zoning Appeals as set forth in Section 17.20 of the Charter.

(Code 1993, § 32-230.7; Code 2004, § 114-230.7; Code 2015, § 30-230.7)

Sec. 30-230.8. Unclassified areas and additions to jurisdictional area.

Areas unclassified by the official zoning map and for which none of the rules of interpretation in this article are applicable and areas newly annexed to the City shall be construed as being within the R-1 Single-Family Residential District until otherwise designated by the City Council.

(Code 1993, § 32-230.8; Code 2004, § 114-230.8; Code 2015, § 30-230.8)

ARTICLE III. APPLICATION OF REGULATIONS

Sec. 30-300. Compliance with chapter.

No building or structure shall be erected, reconstructed, enlarged, structurally altered, converted or moved nor shall any land, building or structure be used or occupied except in conformity with all the regulations established by this chapter for the district in which such land, building or structure is located.

(Code 1993, § 32-300; Code 2004, § 114-300; Code 2015, § 30-300)

Sec. 30-310. Required yard, area or space for a use or structure to be used for any other use or structure.

No part of any yard, area, open space or parking or loading space required for one use or structure shall be encroached upon or considered as yard, area, open space or parking or loading space for any other use or structure, except as specifically permitted by this chapter.

(Code 1993, § 32-310; Code 2004, § 114-310; Code 2015, § 30-310)

Sec. 30-320. Reduction of required yard, area or space.

No required yard, area, open space or parking or loading space shall be reduced or eliminated by private action except in conformity with the regulations established by this chapter.

(Code 1993, § 32-320; Code 2004, § 114-320; Code 2015, § 30-320)

ARTICLE IV. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-400. Applicability of article.

Regulations applicable within the several districts established by this chapter shall be as set forth in this article, provided that such regulations shall be subject to exceptions, qualifications and modifications contained in Article VI of this chapter. Off-street parking and loading regulations of all uses shall be set as forth in Article VII of this chapter.

(Code 1993, § 32-400; Code 2004, § 114-400; Code 2015, § 30-400)

DIVISION 2. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 30-402.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-1 district:

(1) Single-family detached dwellings;

(2) Libraries, museums, schools, parks and recreational facilities owned or operated by any governmental

agency, and other uses required for the performance of governmental functions and primarily intended to serve residents of adjoining neighborhoods, provided that a plan of development shall be required as set forth in Article X of this chapter for any such use that is not subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter;

(3) Churches and other places of worship, which may include the serving of food as a charitable or fellowship use within the church or place of worship, provided that a plan of development shall be required as set forth in Article X of this chapter for any church or other place of worship;

(4) Propagation and cultivation of crops, flowers, trees and shrubs which are not offered for sale on the premises;

(5) Public and private noncommercial forests, wildlife preserves and conservation areas;

(6) Private noncommercial parks, recreational facilities, country clubs, swimming pools, athletic fields, community center buildings and uses incidental thereto, operated by associations or organizations not organized for profit, the exclusive use of which is limited to members of such associations or organizations and their guests, provided that the following conditions are met:

a. Principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan, except that this provision shall not apply to premises exclusively serving the residents of an adjoining neighborhood;

b. Portions of the premises devoted to outdoor activities shall be effectively screened from view from abutting properties in R and RO districts by evergreen vegetative or structural screens not less than six feet in height;

c. No building shall be located within 50 feet of an adjoining lot in an R and RO district;

d. Swimming pools and adjoining deck areas shall be completely enclosed with a fence or wall not less than four feet in height, and no swimming pool or adjoining deck area shall be located within 50 feet of an adjoining lot in an R or RO district;

e. A plan of development shall be required as set forth in Article X of this chapter.

(7) Private elementary and secondary schools having curricula substantially the same as that offered in public schools, provided that a plan of development shall be required as set forth in Article X of this chapter;

(8) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(9) Antennas and support structures for communications systems operated by or for the City;

(10) Wireless communications facilities and microwave relay facilities, including support structures, on property owned by the City, subject to the requirements for location, character and extent approval by the City Planning Commission in accordance with the requirements of Section 17.07 of the City Charter.

(Code 1993, § 32-402.1; Code 2004, § 114-402.1; Code 2015, § 30-402.1; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-402.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses, shall be permitted in the R-1 district (see Article VI, Division 9 of this chapter):

(1) Private garages, garden, tool and storage buildings, boathouses, piers and docks;

(2) Home occupations;

(3) Day nurseries when located within churches, or other places of worship, community centers or school buildings, provided:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(4) Parking areas;

(5) Accessory lodging units within single-family dwellings when such units are occupied by a total of not more than two persons;

(6) Swimming pools, tennis courts and similar recreational facilities;

(7) Temporary structures, trailers and storage of equipment and materials incidental to construction activities taking place on the premises, provided that such shall be removed upon completion or abandonment of construction. In the case of public improvements construction taking place within a public right-of-way, such construction related activities shall be permitted on property abutting the construction site when approved by the Director of Public Works and when operated and maintained in accordance with standards established by said Director;

(8) Raising or keeping of domestic animals for noncommercial purposes on lots occupied by single-family dwellings, provided that all pens, runs, out-buildings and other facilities for the housing or enclosure of such animals shall be located not less than 200 feet from all property lines. The restrictions set forth in this subsection shall not apply to the keeping of dogs, cats or other household pets or to the keeping of not more than six female chickens in residential districts. In addition, with regard to the keeping of not more than six female chickens:

a. No fenced area, pen or structure for the keeping of such chickens shall be located closer than 15 feet to any dwelling on an adjacent lot;

b. No fenced area or pen for the keeping of such chickens shall be located within any required front yard or street side yard; and

c. No structure for the keeping of such chickens shall be located within any required yard (see Chapter 4);

(9) Temporary housing of not more than 30 homeless individuals within churches or other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(10) Adult day care facilities when located within churches, other places of worship or community centers;

(11) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(12) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(Code 1993, § 32-402.2; Code 2004, § 114-402.2; Code 2015, § 30-402.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2012-74-84, § 1, 6-11-2012; Ord. No. 2013-47-47, § 1, 4-8-2013; Ord. No. 2019-343, § 1(30-402.2), 6-22-2020; Ord. No. 2020-171, § 1(30-402.2), 9-28-2020)

Sec. 30-402.3. Reserved.

Sec. 30-402.4. Lot area and width.

Single-family dwellings in the R-1 Single-Family Residential District shall be located on lots of not less than 20,000 square feet in area with a width of not less than 100 feet (see Article VI, Division 3 of this chapter).

(Code 1993, § 32-402.4; Code 2004, § 114-402.4; Code 2015, § 30-402.4)

Sec. 30-402.5. Yards.

Yard regulations in the R-1 Single-Family Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 35 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* There shall be side yards of not less than ten feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than ten feet (see Article VI, Division 4 of this chapter).

(Code 1993, § 32-402.5; Code 2004, § 114-402.5; Code 2015, § 30-402.5)

Sec. 30-402.6. Lot coverage.

Maximum lot coverage in the R-1 Single-Family Residential District shall not exceed 20 percent of the area of the lot.

(Code 1993, § 32-402.6; Code 2004, § 114-402.6; Code 2015, § 30-402.6)

Sec. 30-402.7. Height.

No building or structure in the R-1 Single-Family Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-402.7; Code 2004, § 114-402.7; Code 2015, § 30-402.7)

Sec. 30-402.8. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to a dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Ord. No. 2020-171, § 2(30-402.8), 9-28-2020)

DIVISION 3. R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 30-404.1. Permitted principal uses.

Any principal use permitted in the R-1 district as set forth in Section 30-402.1 shall be permitted in the R-2 Single-Family Residential District.

(Code 1993, § 32-404.1; Code 2004, § 114-404.1; Code 2015, § 30-404.1)

Sec. 30-404.2. Permitted accessory uses and structures.

Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-2 Single-Family Residential District.

(Code 1993, § 32-404.2; Code 2004, § 114-404.2; Code 2015, § 30-404.2)

Sec. 30-404.3. Reserved.

Sec. 30-404.4. Lot area and width.

Single-family dwellings in the R-2 Single-Family Residential District shall be located on lots of not less than 15,000 square feet in area with a width of not less than 90 feet (see Article VI, Division 3 of this chapter).

(Code 1993, § 32-404.4; Code 2004, § 114-404.4; Code 2015, § 30-404.4)

Sec. 30-404.5. Yards.

Yard regulations in the R-2 Single-Family Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 30 feet (see Article VI, Division 4

of this chapter).

(2) *Side yards.* There shall be side yards not less than nine feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than nine feet (see Article VI, Division 4 of this chapter).

(Code 1993, § 32-404.5; Code 2004, § 114-404.5; Code 2015, § 30-404.5)

Sec. 30-404.6. Lot coverage.

Maximum lot coverage in the R-2 Single-Family Residential District shall not exceed 25 percent of the area of the lot.

(Code 1993, § 32-404.6; Code 2004, § 114-404.6; Code 2015, § 30-404.6)

Sec. 30-404.7. Height.

No building or structure in the R-2 Single-Family Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-404.7; Code 2004, § 114-404.7; Code 2015, § 30-404.7)

Sec. 30-404.8. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to a dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Ord. No. 2020-171, § 3(30-404.8), 9-28-2020)

DIVISION 4. R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 30-406.1. Permitted principal uses.

Any principal use permitted in the R-1 district as set forth in Section 30-402.1 shall be permitted in the R-3 Single-Family Residential District.

(Code 1993, § 32-406.1; Code 2004, § 114-406.1; Code 2015, § 30-406.1)

Sec. 30-406.2. Permitted accessory uses and structures.

Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-3 Single-Family Residential District.

(Code 1993, § 32-406.2; Code 2004, § 114-406.2; Code 2015, § 30-406.2)

Sec. 30-406.3. Reserved.

Sec. 30-406.4. Lot area and width.

Single-family dwellings in the R-3 Single-Family Residential District shall be located on lots of not less than 10,000 square feet in area with a width of not less than 75 feet (see Article VI, Division 3 of this chapter).

(Code 1993, § 32-406.4; Code 2004, § 114-406.4; Code 2015, § 30-406.4)

Sec. 30-406.5. Yards.

Yard regulations in the R-3 Single-Family Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* There shall be side yards of not less than 7 1/2 feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than 7 1/2 feet (see Article VI, Division 4 of this chapter).

(Code 1993, § 32-406.5; Code 2004, § 114-406.5; Code 2015, § 30-406.5)

Sec. 30-406.6. Lot coverage.

Maximum lot coverage in the R-3 Single-Family Residential District shall not exceed 25 percent of the area of the lot.

(Code 1993, § 32-406.6; Code 2004, § 114-406.6; Code 2015, § 30-406.6)

Sec. 30-406.7. Height.

No building or structure in the R-3 Single-Family Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-406.7; Code 2004, § 114-406.7; Code 2015, § 30-406.7)

Sec. 30-406.8. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to a dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Ord. No. 2020-171, § 4(30-406.8), 9-28-2020)

DIVISION 5. R-4 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 30-408.1. Permitted principal uses.

Any principal use in the R-1 district as set forth in Section 30-402.1 shall be permitted in the R-4 Single-Family Residential District.

(Code 1993, § 32-408.1; Code 2004, § 114-408.1; Code 2015, § 30-408.1)

Sec. 30-408.2. Permitted accessory uses and structures.

Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-4 Single-Family Residential District.

(Code 1993, § 32-408.2; Code 2004, § 114-408.2; Code 2015, § 30-408.2)

Sec. 30-408.3. Reserved.

Sec. 30-408.4. Lot area and width.

Single-family dwellings in the R-4 Single-Family Residential District shall be located on lots of not less than 7,500 square feet in area with a width of not less than 60 feet (see Article VI, Division 3 of this chapter).

(Code 1993, § 32-408.4; Code 2004, § 114-408.4; Code 2015, § 30-408.4)

Sec. 30-408.5. Yards.

Yard regulations in the R-4 Single-Family Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* There shall be side yards of not less than six feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than six feet (see Article VI, Division 4 of this chapter).

(Code 1993, § 32-408.5; Code 2004, § 114-408.5; Code 2015, § 30-408.5)

Sec. 30-408.6. Lot coverage.

Maximum lot coverage in the R-4 Single-Family Residential District shall not exceed 30 percent of the area of the lot.

(Code 1993, § 32-408.6; Code 2004, § 114-408.6; Code 2015, § 30-408.6)

Sec. 30-408.7. Height.

No building or structure in the R-4 Single-Family Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-408.7; Code 2004, § 114-408.7; Code 2015, § 30-408.7)

Sec. 30-408.8. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to a dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Ord. No. 2020-171, § 5(30-408.8), 9-28-2020)

DIVISION 6. R-5 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 30-410.1. Permitted principal uses.

Any principal use permitted in the R-1 district as set forth in Section 30-402.1 shall be permitted in the R-5 Single-Family Residential District.

(Code 1993, § 32-410.1; Code 2004, § 114-410.1; Code 2015, § 30-410.1)

Sec. 30-410.2. Permitted accessory uses and structures.

Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2 shall be permitted in the R-5 Single-Family Residential District.

(Code 1993, § 32-410.2; Code 2004, § 114-410.2; Code 2015, § 30-410.2)

Sec. 30-410.3. Reserved.

Sec. 30-410.4. Lot area and width.

Single-family dwellings in the R-5 Single-Family Residential District shall be located on lots of not less than 6,000 square feet in area with a width of not less than 50 feet (see Article VI, Division 3 of this chapter).

(Code 1993, § 32-410.4; Code 2004, § 114-410.4; Code 2015, § 30-410.4)

Sec. 30-410.5. Yards.

Yard regulations in the R-5 Single-Family Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* There shall be side yards of not less than five feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than five feet (see Article VI, Division 4 of this chapter).

(Code 1993, § 32-410.5; Code 2004, § 114-410.5; Code 2015, § 30-410.5)

Sec. 30-410.6. Lot coverage.

Maximum lot coverage in the R-5 Single-Family Residential District shall not exceed 35 percent of the area of the lot.

(Code 1993, § 32-410.6; Code 2004, § 114-410.6; Code 2015, § 30-410.6)

Sec. 30-410.7. Height.

No building or structure in the R-5 Single-Family Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-410.7; Code 2004, § 114-410.7; Code 2015, § 30-410.7)

Sec. 30-410.8. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to a dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Ord. No. 2020-171, § 6(30-410.8), 9-28-2020)

DIVISION 6.1. R-5A SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 30-411.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the R-5A Single- and Two-Family Residential District is to preserve and enhance the established character of older residential neighborhoods located in various parts of the City and characterized by a mixture of detached single- and two-family dwellings situated on modest sized lots. The R-5A district regulations and the supplemental regulations of this chapter are intended to encourage continued improvement and economic use of existing residential buildings and their accessory structures, while enabling development of remaining vacant lots in a manner compatible with existing development.

(Code 1993, § 32-411.1; Code 2004, § 114-411.1; Code 2015, § 30-411.1)

Sec. 30-411.2. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-5A Single- and Two-Family Residential District:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1.

(2) Two-family detached dwellings.

(Code 1993, § 32-411.2; Code 2004, § 114-411.2; Code 2015, § 30-411.2)

Sec. 30-411.3. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-5A Single- and Two-Family Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family dwelling, provided that:

a. The single-family dwelling shall not contain any accessory lodging units;

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;

c. The lot shall meet the lot area requirement for a two-family dwelling;

d. One off-street parking space shall be provided for the additional dwelling unit; and

e. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.

(Code 1993, § 32-411.3; Code 2004, § 114-411.3; Code 2015, § 30-411.3; Ord. No. 2019-343, § 1(30-411.3), 6-22-2020)

Sec. 30-411.4. Reserved.

Sec. 30-411.5. Lot area and lot width.

Lot area and lot width regulations in the R-5A Single- and Two-Family Residential District shall be as follows (see Article VI, Division 3 of this chapter):

(1) *Single-family detached dwellings.* Single-family detached dwellings shall be located on lots of not less than 5,000 square feet in area with a width of not less than 50 feet.

(2) *Two-family detached dwellings.* Two-family detached dwellings shall be located on lots of not less than 6,000 square feet in area with a width of not less than 50 feet.

(Code 1993, § 32-411.5; Code 2004, § 114-411.5; Code 2015, § 30-411.5)

Sec. 30-411.6. Yards.

Yard regulations in the R-5A Single- and Two-Family Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* There shall be side yards of not less than five feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than five feet (see Article VI, Division 4 of this chapter).

(Code 1993, § 32-411.6; Code 2004, § 114-411.6; Code 2015, § 30-411.6)

Sec. 30-411.7. Lot coverage.

Lot coverage in the R-5A Single- and Two-Family Residential District shall not exceed 40 percent of the area of the lot.

(Code 1993, § 32-411.7; Code 2004, § 114-411.7; Code 2015, § 30-411.7)

Sec. 30-411.8. Height.

No building or structure in the R-5A Single- and Two-Family Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter and Section 30-680.1).

(Code 1993, § 32-411.8; Code 2004, § 114-411.8; Code 2015, § 30-411.8)

DIVISION 7. R-6 SINGLE-FAMILY ATTACHED RESIDENTIAL DISTRICT

Sec. 30-412.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-6 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family detached dwellings;

(4) Two-family attached dwellings lawfully existing prior to the effective date of the ordinance from which

this section is derived.

(Code 1993, § 32-412.1; Code 2004, § 114-412.1; Code 2015, § 30-412.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-412.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-6 Single-Family Attached Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family dwelling, provided that:

a. The single-family dwelling shall not contain any accessory lodging units;

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;

c. The lot shall meet the lot area requirement for a two-family dwelling;

d. One off-street parking space shall be provided for the additional dwelling unit; and

e. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.

(Code 1993, § 32-412.2; Code 2004, § 114-412.2; Code 2015, § 30-412.2; Ord. No. 2019-343, § 1(30-412.2), 6-22-2020)

Sec. 30-412.3. Reserved.

Sec. 30-412.4. Lot area and width; density; unit width.

Lot area and width regulations in the R-6 Single-Family Attached Residential District shall be as follows:

(1) *Single-family detached dwellings.* Single-family detached dwellings shall be located on lots of not less than 5,000 square feet in area with a width of not less than 50 feet (see Article VI, Division 3 of this chapter).

(2) *Single-family attached dwellings.* Density, lot area and unit width for single-family attached dwellings shall be as follows:

a. *Density.* The average density within a development site shall not exceed ten dwelling units per acre (see the definition of the term "dwelling, multifamily" in Section 30-1220).

b. *Lot area.* Single-family attached dwellings shall be located on lots of not less than 2,200 square feet in area, provided that such area may be reduced when an area equivalent to such reduction is provided in common ownership elsewhere on the development site and is accessible to residents of the lots so reduced in area and is available for their use. Each lot reduced to less than 2,200 square feet in area shall be provided with a private yard adjoining the dwelling unit and containing not less than 500 square feet of usable open space.

c. *Unit width.* No individual attached dwelling unit shall be less than 16 feet in width, provided that the average width of all units attached within a series shall be not less than 20 feet.

(3) *Two-family attached and detached dwellings.* Two-family attached and detached dwellings shall be located on lots of not less than 6,000 square feet in area with a width of not less than 50 feet (see Article VI, Division 3 of this chapter).

(Code 1993, § 32-412.4; Code 2004, § 114-412.4; Code 2015, § 30-412.4)

Sec. 30-412.5. Yards.

Yard regulations in the R-6 Single-Family Attached Residential District shall be as follows:

(1) *Uses other than attached dwellings.* Yards for uses other than attached dwellings shall be as follows:

a. *Front yard.* There shall be a front yard with a depth of not less than 15 feet (see Article VI, Division 4 of this chapter).

b. *Side yards.* There shall be side yards of not less than five feet in width (see Article VI, Division 4 of this chapter).

c. *Rear yard.* There shall be a rear yard with a depth of not less than five feet (see Article VI, Division 4 of this chapter and Section 30-680.1).

(2) *Single-family and two-family attached dwellings and buildings accessory thereto.* Yards for single-family and two-family attached dwellings and buildings accessory thereto shall be as follows:

a. *Front yard.* There shall be a front yard with a depth of not less than 15 feet adjacent to public streets, private streets, parking areas and common spaces (see Article VI, Division 4 of this chapter).

b. *Side yard.* There shall be side yards of not less than three feet in width except where buildings are attached. There shall be a side yard of not less than ten feet in width at each end of a series of attached units (see Section 30-620.1(d) and Article VI, Division 4 of this chapter).

c. *Rear yard.* There shall be a rear yard with a depth of not less than five feet (see Article VI, Division 4 of this chapter and Section 30-680.1).

(Code 1993, § 32-412.5; Code 2004, § 114-412.5; Code 2015, § 30-412.5; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-412.6. Lot coverage.

Lot coverage in the R-6 Single-Family Attached Residential District shall not exceed 55 percent of the area of the lot.

(Code 1993, § 32-412.6; Code 2004, § 114-412.6; Code 2015, § 30-412.6)

Sec. 30-412.7. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Code 2004, § 114-412.7; Code 2015, § 30-412.7; Ord. No. 2010-18-30, § 1, 2-22-2010)

Sec. 30-412.8. Height.

No building or structure in the R-6 Single-Family Attached Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter and Section 30-680.1).

(Code 1993, § 32-412.8; Code 2004, § 114-412.8; Code 2015, § 30-412.8)

DIVISION 7.1. R-7 SINGLE- AND TWO-FAMILY URBAN RESIDENTIAL DISTRICT

Sec. 30-413.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the R-7 Single- and Two-Family Urban Residential District is to preserve and enhance the established character of older urban residential neighborhoods in the inner areas of the City. The district regulations are designed to reflect the urban nature of such neighborhoods as characterized by a mixture of detached and attached single- and two-family dwellings situated on small lots with narrow yards and modest setbacks. The district regulations, together with the supplemental regulations of this chapter, are intended to encourage continued improvement and efficient use of existing residential buildings and their accessory structures, while ensuring that infill development will be compatible with the established character.

(Code 1993, § 32-413.1; Code 2004, § 114-413.1; Code 2015, § 30-413.1)

Sec. 30-413.2. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-7 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Not more than four dwelling units shall be attached laterally in a series, provided that this provision shall not be applicable in the case of dwelling units existing on the effective date of the ordinance from which this subsection is derived;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family detached dwellings;

(4) Two-family attached dwellings lawfully existing prior to the effective date of the ordinance from which this section is derived.

(Code 1993, § 32-413.2; Code 2004, § 114-413.2; Code 2015, § 30-413.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-413.3. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-7 Single- and Two-Family Urban Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family dwelling, provided that:

a. The single-family dwelling shall not contain any accessory lodging units;

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;

c. The lot shall meet the lot area requirement for a two-family dwelling;

d. One off-street parking space shall be provided for the additional dwelling unit; and

e. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.

(Code 1993, § 32-413.3; Code 2004, § 114-413.3; Code 2015, § 30-413.3; Ord. No. 2019-343, § 1(40-413.3), 6-22-2020)

Sec. 30-413.4. Reserved.

Sec. 30-413.5. Lot area and lot width.

Lot area and lot width regulations in the R-7 Single- and Two-Family Urban Residential District shall be as follows (see Article VI, Division 3 of this chapter):

(1) *Single-family detached dwellings.* Single-family detached dwellings shall be located on lots of not less than 3,600 square feet in area with a width of not less than 30 feet.

(2) *Single-family attached dwellings.* Single-family attached dwellings shall be located on lots of not less than 2,200 square feet in area. Lot width shall be not less than 18 feet, except that the width of any lot at the end of a series of attached units shall be not less than 21 feet.

(3) *Two-family detached dwellings.* Two-family detached dwellings shall be located on lots of not less than 4,400 square feet in area with a width of not less than 42 feet.

(4) *Two-family attached dwellings.* Two-family attached dwellings shall be located on lots of not less than 4,400 square feet in area with a width of not less than 36 feet.

(Code 1993, § 32-413.5; Code 2004, § 114-413.5; Code 2015, § 30-413.5)

Sec. 30-413.6. Yards.

Yard regulations in the R-7 Single- and Two-Family Urban Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 15 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* Side yards shall be provided as follows:

a. *Dwelling uses and buildings accessory thereto.* There shall be side yards of not less than three feet in width except where buildings are attached (see Article VI, Division 4 of this chapter).

b. *All other uses and buildings.* There shall be side yards of not less than five feet in width (see Article VI, Division 4 of this chapter).

(3) *Rear yard.* There shall be a rear yard with a depth of not less than five feet (see Article VI, Division 4 of this chapter and Section 30-680.1).

(Code 1993, § 32-413.6; Code 2004, § 114-413.6; Code 2015, § 30-413.6)

Sec. 30-413.7. Lot coverage.

Lot coverage in an R-7 Single- and Two-Family Urban Residential District shall not exceed 55 percent of the area of the lot.

(Code 1993, § 32-413.7; Code 2004, § 114-413.7; Code 2015, § 30-413.7)

Sec. 30-413.8. Driveways from streets.

No driveway intersecting a street shall be permitted on a lot devoted to dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(Code 2004, § 114-413.8; Code 2015, § 30-413.8; Ord. No. 2010-18-30, § 2, 2-22-2010)

Sec. 30-413.9. Height.

No building or structure in an R-7 Single- and Two-Family Urban Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter and Section 30-680.1).

(Code 1993, § 32-413.9; Code 2004, § 114-413.9; Code 2015, § 30-413.9)

DIVISION 7.2. R-8 URBAN RESIDENTIAL DISTRICT

Sec. 30-413.10. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the R-8 Urban Residential District is to preserve and enhance the established character of older urban residential neighborhoods in the inner areas of the City by ensuring that infill development, as well as redevelopment, will be consistent with the predominant existing development pattern of such neighborhoods. The district regulations incorporate form-based provisions that are designed to preserve the urban nature and sustainability of such neighborhoods as characterized by a mixture of detached and attached dwellings of two and three stories in height with a distinct orientation to the street, and situated on small lots with narrow yards, minimal setbacks from the streets and minimal interruption of the street frontages by open spaces, driveways, parking areas or accessory buildings visible from the streets. The district regulations are also intended to encourage traditional neighborhood development, as well as improvement and efficient use of older commercial-style buildings by enabling, through the conditional use permit process,

commercial uses that are limited in location, type and scale and are intended to provide for the convenience of neighborhood residents within walking distance, to respect the primary residential character of the neighborhood and to avoid traffic, parking congestion, noise and other impacts that typically result from uses that draw patrons from outside a neighborhood.

(Code 2004, § 114-413.10; Code 2015, § 30-413.10; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.11. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-8 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1.

(2) Single-family attached dwellings, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments.

b. Not more than four dwelling units shall be attached laterally in a series, provided that this provision shall not be applicable in the case of dwelling units existing on the effective date of the ordinance creating the R-8 district.

c. A plan of development shall be required as set forth in Article X of this chapter for any development with more than eight newly constructed single-family attached dwellings.

(3) Two-family detached dwellings.

(4) Two-family attached dwellings, provided that not more than three two-family dwellings shall be attached laterally in a series.

(Code 2004, § 114-413.11; Code 2015, § 30-413.11; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.12. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the R-8 district by conditional use permit as set forth in Article X of this chapter:

(1) Multifamily dwellings, not to exceed four dwelling units, located on lots of not less than 1,500 square feet in area for each dwelling unit.

(2) Live/work units, provided that:

a. Not more than one person who does not reside in the unit shall be employed at any one time in the conduct of the nondwelling activity.

b. Space devoted to the nondwelling activity within such unit shall not exceed 40 percent of the total floor area of the unit.

c. The nondwelling activity shall not involve the sale of products directly to customers on the premises, the housing of persons for compensation, or any group instruction or group assembly involving more than two patrons or clients at any one time.

d. There shall be no process or activity conducted or equipment operated in conjunction with the nondwelling activity that generates any noise, vibration, odor, smoke, fumes, glare or electrical interference discernable to the normal senses outside of the live/work unit. The use or storage or both of hazardous materials of such type or in such quantities not normally permitted in a residential structure shall be prohibited.

(3) The following nondwelling uses occupying the ground floor of existing buildings, provided that the building devoted to any such use was, prior to May 19, 1943, originally constructed for or converted to commercial use, and provided further that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any such use:

a. Art galleries, including custom framing in conjunction therewith.

b. Barber shops and beauty salons, including manicure, spa, tanning and similar services in conjunction therewith.

c. Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises.

d. Laundromats and laundry and dry cleaning pick-up stations.

e. Offices, including business, professional and administrative offices, and studios of writers, designers and artists engaged in the arts.

f. Restaurants, tea rooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including catering businesses in conjunction therewith, but not including establishments providing live entertainment or establishments where food or beverage is intended to be consumed on the premises outside a completely enclosed building.

g. Video rental stores.

(4) Dwelling units occupying space above the ground floor of existing buildings devoted to uses specified in subsection (3) of this section, provided that a total of not more than four such dwelling units shall be located in a building and that each dwelling unit shall contain not less than 600 square feet of floor area.

(Code 2004, § 114-413.12; Code 2015, § 30-413.12; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.13. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-8 district (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family dwelling, provided that:

a. The single-family dwelling shall not contain any accessory lodging units.

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code.

c. The lot shall meet the lot area requirement for a two-family dwelling.

d. One off-street parking space shall be provided for the additional dwelling unit.

e. Access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.

(Code 2004, § 114-413.13; Code 2015, § 30-413.13; Ord. No. 2010-18-30, § 3, 2-22-2010; Ord. No. 2019-343, § 1(30-413.13), 6-22-2020)

Sec. 30-413.14. Lot area and lot width.

Lot area and lot width regulations in the R-8 district shall be as follows (see Article VI, Division 3 of this chapter):

(1) *Single-family detached dwellings.* Single-family detached dwellings shall be located on lots of not less than 3,000 square feet in area. Lot width shall be not less than 25 feet, provided that in any case where an existing lot of record is to be split or subdivided into two or more lots and where, exclusive of such lot, the average width of the lots on the block is greater than 25 feet, the width of each lot created by the lot split or subdivision shall be not less than such average. This lot width provision shall not be applicable in a case where all of the frontage on a block is proposed to be re-subdivided.

(2) *Single-family attached dwellings.* Single-family attached dwellings shall be located on lots of not less

than 2,200 square feet in area. Lot width shall be not less than 16 feet, except that the width of any lot at the end of a series of attached units shall be not less than 19 feet.

(3) *Two-family detached and attached dwellings.* Two-family detached dwellings and two-family attached dwellings shall be located on lots of not less than 3,400 square feet in area with a width of not less than 28 feet.

(4) *Maximum lot width for single and two-family dwellings.* No newly created lot devoted to single-family or two-family use shall exceed a width of 45 feet, whether such lot is created by combination of existing lots or by subdivision of any parcel.

(Code 2004, § 114-413.14; Code 2015, § 30-413.14; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.15. Yards.

Yard regulations in the R-8 district shall be as follows (see Article VI, Divisions 4 and 9 of this chapter):

(1) *Front yard.* There shall be a front yard with a depth of not less than ten feet and not greater than 18 feet, provided that:

a. Where existing buildings are located on one or both abutting lots along the same street frontage, the front yard shall not be less than the front yard provided for the existing building closest to the street but in no case greater than 18 feet.

b. On a corner lot where an existing building is located on an abutting lot or across an alley from an adjacent lot along the same street frontage, the front yard shall be not less than the front yard provided for such existing building but not more than 18 feet.

(2) *Side yards.* Side yards shall be provided as follows:

a. *Dwelling uses and buildings accessory thereto.* There shall be side yards of not less than three feet in width except where buildings are attached or where the zero-lot-line option is utilized.

b. *All other uses and buildings.* There shall be side yards of not less than five feet in width.

(3) *Side yard: zero-lot-line option.* One side yard for a single-family detached dwelling may be equal to zero, provided that:

a. The side yard on the opposite side of the same lot shall be not less than six feet in width, and in no case shall the separation between buildings on abutting lots be less than six feet.

b. Not less than 50 percent of the overall depth of the dwelling unit shall be provided along the designated zero-lot-line, and doors, windows or similar openings in the building wall facing the designated zero-lot-line shall comply with the requirements of the Uniform Statewide Building Code.

c. A perpetual easement of not less than five feet in unobstructed width shall be provided on the adjacent lot to permit maintenance of structures abutting a zero-lot-line, which easement shall provide for encroachment of siding, belt courses, eaves, gutters, normal roof overhangs and similar architectural features. Such easement and the buildable area of each lot shall be shown on the subdivision plat, if applicable, and shall be described in the deed for each property.

d. For purposes of this subsection, a margin of error of not greater than two-tenths of one foot shall be applicable to the location of a structure abutting a designated zero-lot-line, provided that any encroachment onto an abutting lot shall be accommodated by a recorded easement.

(4) *Rear yard.* There shall be a rear yard with a depth of not less than five feet.

(5) *Location of accessory buildings.* Except as provided in Section 30-680.1, accessory buildings shall be located only in a rear yard as defined in Article XII of this chapter, but not within five feet of the rear lot line.

(Code 2004, § 114-413.15; Code 2015, § 30-413.15; Ord. No. 2010-18-30, § 3, 2-22-2010; Ord. No. 2020-171, § 1(30-413.15), 9-28-2020)

Sec. 30-413.16. Lot coverage.

Lot coverage in an R-8 district shall not exceed 65 percent of the area of the lot.

(Code 2004, § 114-413.16; Code 2015, § 30-413.16; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.17. Building orientation to street, exterior entrances, and first floor elevation.

(a) *Orientation to the street.* The architectural front of a building shall be oriented to the street and, in the case of a rectilinear street frontage, shall be parallel or nearly parallel to the street. In the case of a corner lot, such orientation shall be to the principal street frontage.

(b) *Two-family dwelling exterior entrances.* In the case of a newly constructed two-family dwelling or conversion of an existing building to a two-family dwelling, there shall be not more than one exterior entrance oriented to a single street frontage, except in a case where an existing building contained more than one exterior entrance oriented to a single street frontage prior to conversion of the building to a two-family dwelling.

(c) *First floor elevation.* The finished elevation of the first floor of a building devoted to dwelling use shall be not less than two feet above the mean grade level at the building façade along the street frontage of the lot or, in the case of a corner lot, along the principal street frontage of the lot.

(Code 2004, § 114-413.17; Code 2015, § 30-413.17; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.18. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles, other than permitted driveways from a street, shall be located to the rear of buildings so as not to be visible from the street frontage of the lot. On a lot having more than one street frontage, the provisions of this subsection shall apply only along the principal street frontage of the lot.

(b) *Driveways from streets.* No driveway intersecting a street shall be permitted on a lot devoted to dwelling use when alley access is available to serve such lot. In the case of a corner lot, no such driveway shall be permitted intersecting a street which constitutes the principal street frontage of a lot when other street frontage or alley access is available to serve the lot. Permitted driveways within front yards of single-family and two-family dwellings shall not exceed nine feet in width.

(c) *Improvement requirements and landscaping standards.* In addition to the provisions of this section, parking areas shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-413.18; Code 2015, § 30-413.18; Ord. No. 2010-18-30, § 3, 2-22-2010)

Sec. 30-413.19. Height.

Height regulations in the R-8 district shall be as follows:

(1) *Maximum height in general.* No building shall exceed three stories in height. For purposes of this section, story height as defined in Article XII of this chapter and as applicable to dwelling uses shall be not less than ten feet and not greater than 12 feet (see Section 30-680.4).

(2) *Maximum height in special cases.* Where 60 percent or more of the lots on a block are developed with main buildings of less than three stories in height, no building hereinafter constructed on such block shall exceed two stories in height, except that on a lot where a main building on an adjacent lot along the same street frontage exceeds two stories in height, the height limit shall be three stories.

(3) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos, attached garages and carports and similar structures attached to a main building may be of lesser height.

(4) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2004, § 114-413.19; Code 2015, § 30-413.19; Ord. No. 2010-18-30, § 3, 2-22-2010)

DIVISION 8. R-43 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 30-414.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-43 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family detached dwellings, provided that when more than one main building is to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(5) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(6) Adult day care facilities.

(Code 1993, § 32-414.1; Code 2004, § 114-414.1; Code 2015, § 30-414.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-414.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-43 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) Short-term rental located within an accessory building permitted by subsection (2) of this section.

(Code 1993, § 32-414.2; Code 2004, § 114-414.2; Code 2015, § 30-414.2; Ord. No. 2019-343, § 1(30-414.2), 6-22-2020)

Sec. 30-414.3. Reserved.

Sec. 30-414.4. Lot area and width; density; unit width.

(a) Minimum lot areas and lot widths for single-family detached and two-family dwellings and maximum density, minimum lot area and minimum unit width for single-family attached dwellings in the R-43 Multifamily Residential District shall be as required in the R-6 district and set forth in Section 30-412.4.

(b) Multifamily dwellings shall be located on lots of not less than 3,000 square feet in area for each dwelling unit.

(Code 1993, § 32-414.4; Code 2004, § 114-414.4; Code 2015, § 30-414.4)

Sec. 30-414.5. Yards.

Yard regulations in the R-43 Multifamily Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet, except that front yards for single-family attached dwellings fronting on private streets, parking areas and common spaces shall be not less than 15 feet in depth (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-6 district and set forth in Section 30-412.5 (see Article VI, Divisions 3, 4 and 9 of this chapter).

b. Side and rear yards for uses and buildings other than single-family and two-family dwellings and buildings accessory thereto shall be not less than 15 feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 20 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 1993, § 32-414.5; Code 2004, § 114-414.5; Code 2015, § 30-414.5)

Sec. 30-414.6. Usable open space.

In the R-43 Multifamily Residential District, usable open space of not less than 60 percent of the area of the lot shall be provided for multifamily dwellings (see definition of term in Section 30-1220).

(Code 1993, § 32-414.6; Code 2004, § 114-414.6; Code 2015, § 30-414.6)

Sec. 30-414.6:1. Lot coverage.

Maximum lot coverage in the R-43 Multifamily Residential District shall not exceed 40 percent of the area of the lot for uses other than multifamily dwellings.

(Code 1993, § 32-414.6:1; Code 2004, § 114-414.6:1; Code 2015, § 30-414.6:1)

Sec. 30-414.7. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-414.7, which pertained to number of attached dwellings in series and derived from Code 1993, § 32-414.7.

Sec. 30-414.8. Height.

No building or structure in the R-43 Multifamily Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-414.8; Code 2004, § 114-414.8; Code 2015, § 30-414.8)

DIVISION 9. R-48 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 30-416.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-48 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family dwellings, provided that when more than one main building is to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(5) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(6) Adult day care facilities.

(Code 1993, § 32-416.1; Code 2004, § 114-416.1; Code 2015, § 30-416.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-416.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-48 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guests shall not exceed one for each 50 dwelling units within the development.

(3) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family, two-family or multifamily dwelling, provided that:

a. The main building shall not contain any lodging units;

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;

c. Lot area requirements shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;

d. Usable open space requirements shall be applicable only where the main building is devoted to multifamily use. Required usable open space may be reduced to the extent necessary to provide required parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code;

e. Not less than one off-street parking space shall be provided for such dwelling unit in addition to spaces required for other use of the property; and

f. Emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(4) Short-term rental located within an accessory building permitted by subsection (3) of this section.

(Code 1993, § 32-416.2; Code 2004, § 114-416.2; Code 2015, § 30-416.2; Ord. No. 2019-343, § 1(30-416.2), 6-22-2020)

Sec. 30-416.3. Reserved.

Sec. 30-416.4. Lot area and width.

(a) Minimum lot areas and lot widths for single-family and two-family dwellings in the R-48 Multifamily Residential District shall be as required in the R-7 district and set forth in Section 30-413.5.

(b) Multifamily dwellings shall be located on lots of not less than 2,200 square feet in area for each dwelling unit.

(Code 1993, § 32-416.4; Code 2004, § 114-416.4; Code 2015, § 30-416.4)

Sec. 30-416.5. Yards.

Yard regulations in the R-48 Multifamily Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet, except that front yards for single-family and two-family dwellings shall be not less than 15 feet in depth (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-7 district and set forth in Section 30-413.6 (see Article VI, Divisions 3, 4 and 9 of this chapter).

b. Side and rear yards for uses and buildings other than single-family and two-family dwellings and buildings accessory thereto shall be not less than 15 feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 1993, § 32-416.5; Code 2004, § 114-416.5; Code 2015, § 30-416.5)

Sec. 30-416.6. Usable open space.

In the R-48 Multifamily Residential District, usable open space of not less than 50 percent of the area of the lot shall be provided for multifamily dwellings (see definition of term in Section 30-1220).

(Code 1993, § 32-416.6; Code 2004, § 114-416.6; Code 2015, § 30-416.6)

Sec. 30-416.6:1. Lot coverage.

Maximum lot coverage in the R-48 Multifamily Residential District shall not exceed 50 percent of the area of the lot for uses other than multifamily dwellings.

(Code 1993, § 32-416.6:1; Code 2004, § 114-416.6:1; Code 2015, § 30-416.6:1)

Sec. 30-416.7. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-416.7, which pertained to number of attached dwellings in series and derived from Code 1993, § 32-416.7.

Sec. 30-416.8. Height.

No building or structure in the R-48 Multifamily Residential District shall exceed 35 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-416.8; Code 2004, § 114-416.8; Code 2015, § 30-416.8)

DIVISION 10. R-53 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 30-418.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-53 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family dwellings, provided that when more than one main building is to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(5) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(6) Tourist homes situated on Federal highways;

(7) Parking areas serving uses permitted in this district, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(8) Adult day care facilities.

(Code 1993, § 32-418.1; Code 2004, § 114-418.1; Code 2015, § 30-418.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-418.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-53 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family, two-family or multifamily dwelling, provided that:

a. The main building shall not contain any lodging units;

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;

c. Lot area requirements shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;

d. Usable open space requirements shall be applicable only where the main building is devoted to multifamily use. Required usable open space may be reduced to the extent necessary to provide required parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building

Code;

e. Not less than one off-street parking space shall be provided for such dwelling unit in addition to spaces required for other use of the property; and

f. Emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(4) Short-term rental located within an accessory building permitted by subsection (3) of this section.

(Code 1993, § 32-418.2; Code 2004, § 114-418.2; Code 2015, § 30-418.2; Ord. No. 2019-343, § 1(30-418.2), 6-22-2020)

Sec. 30-418.3. Reserved.

Sec. 30-418.4. Lot area and width.

(a) Minimum lot areas and lot widths for single-family and two-family dwellings in the R-53 Multifamily Residential District shall be as required in the R-7 district and set forth in Section 30-413.5.

(b) Multifamily dwellings shall be located on lots of not less than 5,000 square feet in total area and not less than 1,250 square feet in area for each dwelling unit.

(Code 1993, § 32-418.4; Code 2004, § 114-418.4; Code 2015, § 30-418.4)

Sec. 30-418.5. Yards.

Yard regulations in the R-53 Multifamily Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 15 feet (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-7 district and set forth in Section 30-413.6 (see Article VI, Divisions 3, 4 and 9 of this chapter).

b. Side and rear yards for uses and buildings other than single-family and two-family dwellings and buildings accessory thereto shall be not less than 15 feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 1993, § 32-418.5; Code 2004, § 114-418.5; Code 2015, § 30-418.5)

Sec. 30-418.6. Usable open space.

In the R-53 Multifamily Residential District, usable open space of not less than 40 percent of the area of the lot shall be provided for multifamily dwellings (see definition of term in Section 30-1220).

(Code 1993, § 32-418.6; Code 2004, § 114-418.6; Code 2015, § 30-418.6)

Sec. 30-418.6:1. Lot coverage.

Maximum lot coverage in the R-53 Multifamily Residential District shall not exceed 60 percent of the area of the lot for uses other than multifamily dwellings.

(Code 1993, § 32-418.6:1; Code 2004, § 114-418.6:1; Code 2015, § 30-418.6:1)

Sec. 30-418.7. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-418.7, which pertained to number of attached dwellings in series and derived from Code 1993, § 32-418.7.

Sec. 30-418.8. Height.

No building or structure in the R-53 Multifamily Residential District shall exceed 35 feet in height, except that additional height shall be permitted on lots of two acres or more in area, provided that:

(1) No portion of any building shall penetrate inclined planes originating at interior side and rear lot lines or at the centerline of a public alley adjoining any such lot line and extending over the lot at an inclination of one foot horizontal for each one foot vertical.

(2) No portion of any building shall penetrate an inclined plane originating at the centerline of an abutting street and extending over the lot at an inclination of one foot horizontal for each one foot vertical along any street frontage where a front yard is required and one foot horizontal for each 1 1/2 feet vertical along other street frontages.

(3) No building shall exceed 60 feet in height.

(Code 1993, § 32-418.8; Code 2004, § 114-418.8; Code 2015, § 30-418.8)

Sec. 30-418.9. Reserved.

DIVISION 10.1. R-63 MULTIFAMILY URBAN RESIDENTIAL DISTRICT

Sec. 30-419.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the R-63 district is to encourage development of medium density neighborhoods comprised of a mix of residential uses and to promote a pedestrian oriented urban environment that is primarily residential in character, but that includes limited nonresidential uses that serve many of the day-to-day convenience needs of neighborhood residents and provide opportunities for residents to live and work within the neighborhood. The district is intended to be applied within or in close proximity to areas of the City that reflect an urban scale of development and afford convenient access to major employment centers and community facilities, and to encompass undeveloped or underdeveloped properties comprising areas large enough and with sufficient residential density to enable establishment of a cohesive neighborhood. The district regulations permit corner commercial uses that are limited in location, type and scale and are intended to provide for the convenience of neighborhood residents within walking distance, to respect the primary residential character of the neighborhood and to avoid traffic, parking, noise and other impacts that typically result from uses that draw patrons from outside a neighborhood. The district regulations are also intended to promote a streetscape that is urban in character by requiring minimal building setbacks uninterrupted by parking areas along principal street frontages, and to enhance public safety and encourage an active pedestrian environment appropriate to the residential character of the district by providing for windows in building façades along street frontages. Finally, the district regulations are intended to ensure adequate accessible parking, safe vehicular and pedestrian circulation, and to provide for limited interruption by driveways and vehicular traffic across public sidewalk areas along principal street frontages.

(Code 2004, § 114-419.1; Code 2015, § 30-419.1; Ord. No. 2006-197-217, § 1, 7-24-2006)

Sec. 30-419.2. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-63 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1.

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments.

b. Architectural variations shall be provided among units within any series of more than four units.

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings.

(3) Two-family dwellings, provided that when more than one main building is to be located on a lot, or a development contains three or more newly constructed two-family attached dwellings, a plan of development shall be required as set forth in Article X of this chapter.

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter.

(5) Dwelling units located in the same building as permitted principal uses on corner lots listed in Section 30-419.3(a), provided that:

a. A single dwelling unit shall have no minimum lot area requirement.

b. Less than three dwelling units shall not have a lot area less than 1,000 square feet for each dwelling.

c. Three or more dwelling units shall be subject to all of the requirements of this district applicable to multifamily dwellings as specified in Section 30-419.5(5).

(6) Live/work units, provided that:

a. Not more than one person who does not reside in the unit shall be employed at any one time in the conduct of the nondwelling activity.

b. Space devoted to the nondwelling activity within such unit shall not exceed 60 percent of the total floor area of the unit.

c. The nondwelling activity shall not involve the sale of products directly to customers on the premises, the housing of persons for compensation, or any group instruction or group assembly involving more than two patrons or clients at any one time.

d. There shall be no process or activity conducted or equipment operated in conjunction with the nondwelling activity that generates any noise, vibration, odor, smoke, fumes, glare or electrical interference discernable to the normal senses outside of the live/work unit. The use and/or storage of hazardous materials of such type or in such quantities not normally permitted in a residential structure shall be prohibited.

(7) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard.

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard.

c. No play equipment or structure shall be located within a front yard or a required side yard.

(8) Tourist homes situated on Federal highways.

(9) Adult day care facilities.

(Code 2004, § 114-419.2; Code 2015, § 30-419.2; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2007-338-2008-11, § 1, 1-14-2008; Ord. No. 2020-171, § 1(30-419.2), 9-28-2020)

Sec. 30-419.3. Permitted principal uses on corner lots.

(a) In addition to principal uses permitted by Section 30-419.2, the following principal uses shall be permitted on corner lots in the R-63 district subject to the conditions set forth in subsection (b) of this section, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any such uses, and provided further that a plan of development shall be required as set forth in Article X of this chapter:

(1) Art galleries, including custom framing in conjunction therewith.

(2) Barber shops and beauty salons, including manicure, spa, tanning and similar services in conjunction therewith.

(3) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises.

(4) Laundromats and laundry and dry cleaning pick-up stations.

(5) Restaurants, tea rooms, cafes, delicatessens, ice cream parlors and similar food and beverage service

establishments, including catering businesses in conjunction therewith, but not including establishments providing live entertainment. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No such outside area shall be open to patrons between the hours of 11:00 p.m. and 7:00 a.m.

b. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in an R district other than the R-63 district.

c. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines.

d. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises.

e. Such outside areas shall be included in calculation of the total floor area devoted to the use.

(6) Retail stores.

(7) Offices, including businesses, professional, and administrative offices, and studios of writers, designers, and artists engaged in the graphic and visual arts.

(b) The following conditions shall be applicable to permitted principal uses listed in subsection (a) of this section:

(1) Such uses shall be limited to the ground floor of buildings devoted to other permitted principal uses.

(2) The total floor area devoted to such uses on any lot shall not exceed 1,500 square feet. Additional floor area, not to exceed a total of 5,000 square feet, may be permitted subject to approval of a conditional use permit as set forth in Article X of this chapter, provided that off-street parking shall be required in accordance with the provisions of Article VII of this chapter for the amount of floor area in excess of 1,500 square feet.

(3) Such uses shall occupy the portion of the building located at the street corner. Along the principal street frontage of the lot, such uses shall extend no greater distance from the street corner than the equivalent of 15 percent of the total length of the block along such frontage.

(Code 2004, § 114-419.3; Code 2015, § 30-419.3; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2020-171, § 1(30-419.3), 9-28-2020)

Sec. 30-419.4. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses, shall be permitted in the R-63 Multifamily District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) One dwelling unit located in an accessory building which is located on the same lot as a single-family dwelling, provided that:

a. The main building shall not contain any lodging units.

b. The lot area requirement applicable to a two-family detached dwelling shall be met.

c. Not less than one off-street parking space shall be provided for such dwelling unit in addition to space required for the single-family dwelling on the property.

d. Emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

e. A plan of development shall be required as set forth in Article X of this chapter.

(4) Parking areas located on lots occupied by permitted principal uses when such parking areas serve dwelling uses located elsewhere in the R-63 district, provided that:

a. The requirements of Section 30-710.4 shall be met.

b. When such parking areas are located on lots occupied by single-family or two-family dwellings, parking spaces shall be accessible directly from an abutting alley without provision of access aisles on the lot.

(5) Parking decks, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this subsection prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade.

b. Except as provided in subsection (5)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity.

c. Not less than one exit lane and one entrance lane shall be provided, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way.

d. A plan of development shall be required as set forth in Article X of this chapter.

(6) Automated teller machines accessible only from the interior of buildings devoted to permitted principal uses listed in Section 30-419.3.

(7) Short-term rental located within an accessory building permitted by subsection (3) of this section.

(Code 2004, § 114-419.4; Code 2015, § 30-419.4; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2019-343, § 1(30-419.4), 6-22-2020; Ord. No. 2020-171, § 1(30-419.4), 9-28-2020)

Sec. 30-419.5. Lot area and width.

Lot area and lot width regulations in the R-63 district shall be as follows (see Article VI, Division 3 of this chapter):

(1) *Single-family detached dwellings.* Single-family detached dwellings shall be located on lots of not less than 3,000 square feet in area with a width of not less than 25 feet.

(2) *Single-family attached dwellings.* Single-family attached dwellings shall be located on lots of not less than 2,200 square feet in area. Lot width shall be not less than 16 feet, except that the width of any lot at the end of a series of attached units shall be not less than 19 feet.

(3) *Two-family detached dwellings.* Two-family detached dwellings shall be located on lots of not less than 3,200 square feet in area with a width of not less than 27 feet.

(4) *Two-family attached dwellings.* Two-family attached dwellings shall be located on lots of not less than 2,600 square feet in area. Lot width shall be not less than 20 feet, except that the width of any lot at the end of a series of attached units shall be not less than 23 feet.

(5) *Multifamily dwellings.* Multifamily dwellings shall be located on lots of not less than 4,000 square feet in total area and not less than 1,000 square feet in area for each dwelling unit.

(Code 2004, § 114-419.5; Code 2015, § 30-419.5; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2006-330-2007-12, § 1, 1-8-2007; Ord. No. 2010-18-30, § 5, 2-22-2010)

Sec. 30-419.6. Yards.

Yard regulations in the R-63 district shall be as follows (see Article VI, Divisions 3, 4 and 9 of this chapter):

(1) *Front yard.* No front yard shall be required. In no case shall a front yard with a depth of greater than 15 feet be permitted for a main building.

(2) *Side yards.*

a. *Single-family and two-family dwellings and buildings accessory thereto.* There shall be side yards of not less than three feet in width except where buildings are attached.

b. *All other uses and buildings.* There shall be side yards of not less than five feet in width.

(3) *Rear yard.*

a. *Single-family and two-family dwellings and buildings accessory thereto.* There shall be a rear yard of not less than five feet in depth.

b. *All other uses and buildings.* There shall be a rear yard of not less than 15 feet in depth.

(4) *Spaces between buildings on the same lot.*

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 2004, § 114-419.6; Code 2015, § 30-419.6; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2006-330-2007-12, § 1, 1-8-2007)

Sec. 30-419.7. Usable open space.

In the R-63 district, usable open space of not less than 30 percent of the area of the lot shall be provided for multifamily dwellings (see definition of term in Section 30-1220).

(Code 2004, § 114-419.7; Code 2015, § 30-419.7; Ord. No. 2006-197-217, § 1, 7-24-2006)

Sec. 30-419.8. Lot coverage.

In the R-63 district, lot coverage for uses other than multifamily dwellings shall not exceed 65 percent of the area of the lot.

(Code 2004, § 114-419.8; Code 2015, § 30-419.8; Ord. No. 2006-197-217, § 1, 7-24-2006)

Sec. 30-419.9. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles, other than permitted driveways from a street, shall be located to the rear of buildings so as not to be visible from the street frontage of the lot. On a lot having more than one street frontage, the provisions of this subsection shall apply only along the principal street frontage of the lot as defined in Article XII of this chapter.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this provision, principal street frontage shall be as defined in Article XII of this chapter.

(c) *Improvement requirements and landscaping standards.* In addition to the provisions of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-419.9; Code 2015, § 30-419.9; Ord. No. 2006-197-217, § 1, 7-24-2006)

Sec. 30-419.10. Height.

Height regulations in the R-63 district shall be as follows:

(1) *Maximum height in general.* No building or structure shall exceed three stories in height, except as set forth in subsections (2) and (3) of this section. For purposes of this Section 30-419.10, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 14 feet, except as provided in subsections (2) and (3) of this section.

(2) *Maximum height in special cases.* A maximum height of four stories shall be permitted in the case of a building in which not less than 50 percent of the area of the ground floor is devoted to accessory parking deck use in compliance with the provisions of Section 30-419.4(5), provided that in such case no story shall exceed ten feet in height.

(3) *Additional height on corner lots.* Additional height not to exceed a total height of four stories shall be permitted on a corner lot, provided that along the principal street frontage of the corner lot, such additional height shall be permitted only within a distance from the corner equivalent to 15 percent of the total length of the block along such frontage, and provided further that, in the case of a four story building, no story shall exceed 12 feet in height.

(4) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(5) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2004, § 114-419.10; Code 2015, § 30-419.10; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2006-330-2007-12, § 1, 1-8-2007; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-419.11. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the R-63 district shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot.

(1) *Street level story.*

a. *Uses permitted only on corner lots.* For principal uses that are permitted only on corner lots and listed in Section 30-419.3, a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)a shall not apply.

b. *Dwelling uses.* For dwelling uses, other than single-family and two-family dwellings, windows or glass doors or both that allow views into and out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street

frontage of the lot, the requirements of this subsection (1)b shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.* For dwelling uses, other than single-family and two-family dwellings, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. The types of permitted windows shall be as specified in subsection (1)b of this section.

(Code 2004, § 114-419.11; Code 2015, § 30-419.11; Ord. No. 2006-197-217, § 1, 7-24-2006; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

DIVISION 11. R-73 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 30-420.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-73 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family dwellings, provided that when more than one main building is to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(5) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter;

(6) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(7) Tourist homes situated on Federal highways;

(8) Parking areas serving uses permitted in this district, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(9) Parking decks serving uses permitted in this district, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(10) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts; provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(11) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(12) Adult day care facilities;

(13) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(Code 1993, § 32-420.1; Code 2004, § 114-420.1; Code 2015, § 30-420.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008; Ord. No. 2019-343, § 1(30-420.1), 6-22-2020)

Sec. 30-420.1:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the R-73 Multifamily Residential District by conditional use permit as set forth in Article X of this chapter:

(1) Adult care residences.

(2) Group homes.

(3) Lodginghouses.

(Code 1993, § 32-420.1:1; Code 2004, § 114-420.1:1; Code 2015, § 30-420.1:1)

Sec. 30-420.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-73 Multifamily Residential District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) Incidental uses located within multifamily dwellings, nursing homes and office buildings, designed and scaled for the convenience of the occupants thereof, and including shops for the sale of convenience goods, eating and drinking establishments, automated teller machines and personal service establishments, provided that:

a. There shall be no advertising signs, displays, show windows or automated teller machines visible from the exterior of the building.

b. There shall be no direct public entrance to such uses from the exterior of the building.

c. The aggregate floor area devoted to such uses shall not exceed five percent of the total floor area of the building in which they are located.

(4) Restaurant facilities, automated teller machines and shops for the sale of gifts, flowers, drugs and similar items for the convenience of patients and visitors may be located within hospital buildings, provided that there shall be no signs, displays, show windows or automated teller machines visible from the exterior of the building nor shall there be any direct public entrance to such uses from the exterior of the building.

(5) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family, two-family or multifamily dwelling, provided that:

a. The main building shall not contain any lodging units;

b. There shall be no enlargement of the accessory building, except for ingress and egress improvements required by the Virginia Uniform Statewide Building Code;

c. Lot area, floor area and usable open space requirements, where applicable, shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;

d. Required usable open space may be reduced to the extent necessary to provide required parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code;

e. Not less than one off-street parking space shall be provided for such dwelling unit in addition to spaces required for other use of the property; and

f. Emergency vehicle access to the accessory building shall be provided in accordance with requirements of the Department of Public Works and Department of Fire and Emergency Services.

(Code 1993, § 32-420.2; Code 2004, § 114-420.2; Code 2015, § 30-420.2; Ord. No. 2006-43-63, § 1, 3-13-2006)

Sec. 30-420.3. Reserved.

Sec. 30-420.4. Lot area and width.

In the R-73 Multifamily Residential District, minimum lot areas and lot widths for single-family and two-family dwellings shall be as required in the R-7 district and set forth in Section 30-413.5.

(Code 1993, § 32-420.4; Code 2004, § 114-420.4; Code 2015, § 30-420.4)

Sec. 30-420.5. Yards.

Yard regulations in the R-73 Multifamily Residential District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 15 feet (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-7 district and set forth in Section 30-413.6 (see Article VI, Divisions 3, 4 and 9 of this chapter).

b. Side and rear yards for newly constructed multifamily dwellings and buildings accessory thereto shall be not less than 15 feet in depth.

c. Side and rear yards for uses and buildings other than single-family, two-family and multifamily dwellings and buildings accessory thereto shall be not less than ten feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 1993, § 32-420.5; Code 2004, § 114-420.5; Code 2015, § 30-420.5; Ord. No. 2020-171, § 1(30-420.5), 9-28-2020)

Sec. 30-420.6. Floor area and usable open space.

The following floor area and usable open space ratios shall be applicable to uses other than single-family and two-family dwellings in the R-73 Multifamily Residential District (see definition of term in Section 30-1220):

(1) *Floor area ratio.* The floor area ratio shall not exceed 2.0, provided that the floor area ratio of buildings or portions thereof devoted to nondwelling uses shall not exceed 1.4.

(2) *Usable open space ratio.* A usable open space ratio of not less than 0.25 shall be provided for dwelling

uses.

(Code 1993, § 32-420.6; Code 2004, § 114-420.6; Code 2015, § 30-420.6)

Sec. 30-420.7. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-420.7, which pertained to number of attached dwellings in series and derived from Code 1993, § 32-420.7.

Sec. 30-420.8. Height.

No building or structure in the R-73 Multifamily Residential District shall exceed 150 feet in height, provided that no portion of a building shall penetrate an inclined plane originating at the centerline of an abutting street and extending over the lot at an inclination of one foot horizontal for each two feet vertical along any street frontage where a front yard is required and one foot horizontal for each three feet vertical along other street frontages.

(Code 1993, § 32-420.8; Code 2004, § 114-420.8; Code 2015, § 30-420.8)

DIVISION 12. R-MH MOBILE HOME DISTRICT

Sec. 30-422.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the R-MH district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1, subject to all requirements applicable to such uses in the R-6 district as set forth in Division 7 of this article;

(2) Manufactured home subdivisions on sites of not less than eight acres in area subject to all requirements applicable to single-family detached dwellings in the R-6 district as set forth in Division 7 of this article;

(3) Manufactured home parks on sites of not less than eight acres in area, provided that a plan of development shall be required as set forth in Article X of this chapter.

(Code 1993, § 32-422.1; Code 2004, § 114-422.1; Code 2015, § 30-422.1; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-422.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the R-MH district:

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2;

(2) Uses and structures accessory to manufactured home subdivisions, manufactured home parks and individual manufactured home units, including awnings, porches, carports, parking areas, service buildings, rental management offices, maintenance and storage buildings, recreational facilities, community buildings and other uses for the convenience of residents.

(Code 1993, § 32-422.2; Code 2004, § 114-422.2; Code 2015, § 30-422.2; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-422.3. Reserved.

Sec. 30-422.4. Density and size of unit spaces within manufactured home parks.

The density and size of unit space within manufactured home parks in the R-MH district shall be as follows:

(1) *Density.* The maximum density within a manufactured home park shall not exceed eight units per acre.

(2) *Unit space area.* Individual spaces for manufactured home units shall be not less than 3,000 square feet in area.

(3) *Unit space width.* Individual spaces for mobile home units shall be not less than 40 feet in width.

(Code 1993, § 32-422.4; Code 2004, § 114-422.4; Code 2015, § 30-422.4; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-422.5. Yards within manufactured home parks.

Regulations for yards within manufactured home parks in the R-MH district shall be as follows:

(1) No manufactured home space or accessory building shall be located within 25 feet of any public street

or any exterior boundary of a manufactured home park.

(2) No manufactured home unit or accessory building shall be located within 15 feet of any private street or access drive.

(3) No manufactured home unit shall be located within 15 feet of any other manufactured home unit or accessory building.

(Code 1993, § 32-422.5; Code 2004, § 114-422.5; Code 2015, § 30-422.5; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-422.6. Recreation space.

Outdoor recreation space totaling not less than 250 square feet in area for each manufactured home space within a manufactured home park shall be provided within such park.

(Code 1993, § 32-422.6; Code 2004, § 114-422.6; Code 2015, § 30-422.6; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-422.7. Screening.

Manufactured home parks shall be effectively screened from abutting properties in R and RO districts by evergreen vegetative or structural fences or screens not less than 4 1/2 feet in height.

(Code 1993, § 32-422.7; Code 2004, § 114-422.7; Code 2015, § 30-422.7; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-422.8. Height.

No building or structure within a manufactured home park shall exceed 25 feet in height.

(Code 1993, § 32-422.8; Code 2004, § 114-422.8; Code 2015, § 30-422.8; Ord. No. 2004-180-167, § 1, 6-28-2004)

DIVISION 13. RO-1 RESIDENTIAL-OFFICE DISTRICT

Sec. 30-424.1. Permitted principal uses.

The uses of buildings and premises listed in this section shall be permitted in the RO-1 district. A plan of development shall be required as set forth in Article X of this chapter for all uses permitted in this district unless indicated otherwise in this section.

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1, subject to plan of development requirements applicable in such district;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such development;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family detached dwellings, provided that a plan of development shall not be required when no more than one main building is to be located on a lot;

(4) Multifamily dwellings, provided that a plan of development shall not be required when no more than one main building and no more than ten dwelling units are to be located on a lot;

(5) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(6) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts; provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises;

(7) Private schools offering instruction in skills practiced in connection with the operation of uses permitted in this district;

(8) Funeral homes, provided that:

a. Principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan;

b. Adequate space shall be provided on the premises for the formation of funeral processions, and no such activity shall take place on public streets;

(9) Communications centers and telephone repeater stations operated by public service corporations provided that a plan of development shall not be required;

(10) Adult day care facilities.

(Code 1993, § 32-424.1; Code 2004, § 114-424.1; Code 2015, § 30-424.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2007-338-2008-11, § 1, 1-14-2008)

Sec. 30-424.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses, shall be permitted in the RO-1 Residential-Office District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(Code 1993, § 32-424.2; Code 2004, § 114-424.2; Code 2015, § 30-424.2)

Sec. 30-424.3. Reserved.

Sec. 30-424.4. Lot area and width; density; unit width.

(a) In the RO-1 Residential-Office District, minimum lot areas and lot widths for single-family detached and two-family dwellings and maximum density, minimum lot area and minimum unit width for single-family attached dwellings shall be required in the R-6 district and set forth in Section 30-412.4.

(b) Multifamily dwellings shall be located on lots of not less than 3,000 square feet in area for each dwelling unit.

(Code 1993, § 32-424.4; Code 2004, § 114-424.4; Code 2015, § 30-424.4)

Sec. 30-424.5. Yards.

Yard regulations in the RO-1 Residential-Office District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet, except that front yards for single-family attached dwellings fronting on private streets, parking areas and common spaces shall be not less than 15 feet in depth (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-6 district and set forth in Section 30-412.5 (see Article VI, Divisions 3, 4 and 9 of this chapter).

b. Side and rear yards for newly constructed multifamily dwellings and buildings accessory thereto shall be not less than 15 feet in depth.

c. Side and rear yards for uses and buildings other than single-family, two-family and multifamily dwellings and buildings accessory thereto shall be not less than ten feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 20 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 1993, § 32-424.5; Code 2004, § 114-424.5; Code 2015, § 30-424.5; Ord. No. 2020-171, § 1(30-424.5), 9-28-2020)

Sec. 30-424.6. Usable open space.

In the RO-1 Residential-Office District, usable open space of not less than 60 percent of the area of the lot shall be provided for multifamily dwellings (see definition of term in Section 30-1220).

(Code 1993, § 32-424.6; Code 2004, § 114-424.6; Code 2015, § 30-424.6)

Sec. 30-424.6:1. Lot coverage.

Maximum lot coverage in the RO-1 Residential-Office District shall not exceed 40 percent of the area of the lot for uses other than multifamily dwellings.

(Code 1993, § 32-424.6:1; Code 2004, § 114-424.6:1; Code 2015, § 30-424.6:1)

Sec. 30-424.7. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-424.7, which pertained to number of attached dwellings in series and derived from Code 1993, § 32-424.7.

Sec. 30-424.8. Height.

No building or structure in the RO-1 Residential-Office District shall exceed 25 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-424.8; Code 2004, § 114-424.8; Code 2015, § 30-424.8)

DIVISION 14. RO-2 RESIDENTIAL-OFFICE DISTRICT

Sec. 30-426.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the RO-2 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family dwellings, provided that when more than one main building is to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(5) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter;

(6) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(7) Tourist homes situated on Federal highways;

(8) Parking areas serving uses permitted in this district, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(9) Parking decks serving uses permitted in this district, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(10) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts; provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(11) Private schools offering instruction in skills practiced in connection with the operation of uses permitted in this district;

(12) Banks and savings and loan offices, including accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that when any bank or savings and loan office includes drive-up facilities or an automated teller machine accessible from the exterior of the building, the following conditions shall apply:

a. No such use shall be located on a transitional site;

b. Principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan;

c. The floor area of the building devoted to such use shall not exceed 2,500 square feet, and not more than two drive-up teller lanes shall be provided on the premises;

d. A plan of development shall be required as set forth in Article X of this chapter;

(13) Funeral homes, provided that:

a. Principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan;

b. Adequate space shall be provided on the premises or immediately adjacent thereto for the formation of funeral processions, and no such activity shall take place on public streets;

c. A plan of development shall be required as set forth in Article X of this chapter;

(14) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(15) Radio broadcasting studios and offices, including accessory antennas, provided that the supporting

hardware for any such antenna does not exceed ten feet above ground level, or in the case of a building-mounted antenna, ten feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(16) Communications centers and telephone repeater stations operated by public service corporations, provided that a plan of development shall be required as set forth in Article X of this chapter;

(17) Adult day care facilities;

(18) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(Code 1993, § 32-426.1; Code 2004, § 114-426.1; Code 2015, § 30-426.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2007-338-2008-11, § 1, 1-14-2008; Ord. No. 2019-343, § 1(30-426.1), 6-22-2020)

Sec. 30-426.1:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the RO-2 Residential-Office District by conditional use permit as set forth in Article X, Division 5.1 of this chapter:

(1) Adult care residences.

(2) Group homes.

(3) Lodginghouses.

(Code 1993, § 32-426.1:1; Code 2004, § 114-426.1:1; Code 2015, § 30-426.1:1)

Sec. 30-426.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the RO-2 Residential-Office District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Guest units in multifamily developments available for short-term occupancy by guests of regular tenants of such developments, provided that the total number of such guest units shall not exceed one for each 50 dwelling units within the development.

(3) Restaurant facilities, automated teller machines and shops for the sale of gifts, flowers, drugs and similar items for the convenience of patients and visitors may be located within hospital buildings, provided that there shall be no signs, displays, show windows or automated teller machines visible from the exterior of the building, nor shall there be any direct public entrance to such uses from the exterior of the building.

(4) One dwelling unit located in an accessory building, containing two or more stories, which is existing at the effective date of the ordinance from which this subsection is derived and which is located on the same lot as a single-family, two-family or multifamily dwelling, provided that:

a. The main building shall not contain any lodging units;

b. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code;

c. Lot area requirements shall be met for the total number of dwelling units in the main building and the accessory building as though all units were contained in the main building;

d. Usable open space requirements shall be applicable only where the main building is devoted to multifamily use. Required usable open space may be reduced to the extent necessary to provide required parking for the dwelling unit in the accessory building and to provide ingress or egress improvements to the accessory building required by the Virginia Uniform Statewide Building Code;

e. Not less than one off-street parking space shall be provided for such dwelling unit in addition to spaces required for other use of the property; and

f. Emergency vehicle access to the accessory building shall be provided in accordance with

requirements of the Department of Public Works and Department of Fire and Emergency Services.

(Code 1993, § 32-426.2; Code 2004, § 114-426.2; Code 2015, § 30-426.2; Ord. No. 2006-43-63, § 1, 3-13-2006)

Sec. 30-426.3. Reserved.

Sec. 30-426.4. Lot area and width.

(a) In the RO-2 Residential-Office District, minimum lot areas and lot widths for single-family and two-family dwellings shall be as required in the R-7 district and set forth in Section 30-413.5.

(b) Multifamily dwellings shall be located on lots of not less than 5,000 square feet in total area and not less than 1,250 square feet in area for each dwelling unit.

(Code 1993, § 32-426.4; Code 2004, § 114-426.4; Code 2015, § 30-426.4)

Sec. 30-426.5. Yards.

Yard regulations in the RO-2 Residential-Office District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet, except that front yards for single-family attached dwellings fronting on private streets, parking areas and common spaces shall be not less than 15 feet in depth (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-7 district and set forth in Section 30-413.6 (see Article VI, Divisions 3, 4 and 9 of this chapter).

b. Side and rear yards for newly constructed multifamily dwellings and buildings accessory thereto shall be not less than 15 feet in depth, provided that no side yard shall be required where buildings on abutting lots are attached by means of a party wall constructed along a mutual side lot line.

c. Side and rear yards for uses and buildings other than single-family, two-family and multifamily dwellings and buildings accessory thereto shall be not less than ten feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than ten feet.

(Code 1993, § 32-426.5; Code 2004, § 114-426.5; Code 2015, § 30-426.5; Ord. No. 2020-171, § 1(30-426.5), 9-28-2020)

Sec. 30-426.6. Usable open space.

In the RO-2 Residential-Office District, usable open space of not less than 40 percent of the area of the lot shall be provided for multifamily dwellings, nursing homes, adult care residences, group homes and lodginghouses (see definitions of terms in Section 30-1220).

(Code 1993, § 32-426.6; Code 2004, § 114-426.6; Code 2015, § 30-426.6)

Sec. 30-426.6:1. Lot coverage.

Maximum lot coverage in the RO-2 Residential-Office District shall not exceed 60 percent of the area of the lot for uses other than multifamily dwellings, nursing homes and lodginghouses.

(Code 1993, § 32-426.6:1; Code 2004, § 114-426.6:1; Code 2015, § 30-426.6:1)

Sec. 30-426.7. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-426.7, which pertained to number of attached dwellings in series and derived from Code 1993, § 32-426.7.

Sec. 30-426.8. Height.

No building or structure in the RO-2 Residential-Office District shall exceed 35 feet in height, except that additional height shall be permitted on lots of two acres or more in area, provided that:

(1) No portion of any building shall penetrate inclined planes originating at interior side and rear lot lines or at the centerline of a public alley adjoining any such lot line and extending over the lot at an inclination of one foot horizontal for each one foot vertical.

(2) No portion of any building shall penetrate an inclined plane originating at the centerline of an abutting street and extending over the lot at an inclination of one foot horizontal for each one foot vertical along any street frontage where a front yard is required and one foot horizontal for each 1 1/2 feet vertical along other street frontages.

(3) No building shall exceed 60 feet in height.

(Code 1993, § 32-426.8; Code 2004, § 114-426.8; Code 2015, § 30-426.8)

DIVISION 15. RO-3 RESIDENTIAL-OFFICE DISTRICT

Sec. 30-428. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the RO-3 Residential-Office District is to encourage a high-quality, walkable urban neighborhood with a variety of office and residential uses. Commercial uses located within the district shall be clearly incidental to other primary uses, though welcoming to the general public. The district is intended to promote pedestrian traffic and reduce the effect of vehicular traffic by prohibiting surface parking lots as a permitted principal use, screening accessory parking lots and parking decks, and reducing driveways across sidewalks. Required front and side yard setbacks create spaces between buildings that soften the streetscape and provide space for landscaping and usable open space. The district regulations are also intended to enhance public safety and encourage an active urban environment by providing windows in building façades along street frontages.

(Code 2015, § 30-428; Ord. No. 2019-169, § 2(30-428), 7-22-2019)

Sec. 30-428.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the RO-3 district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Dwelling units;

(3) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter;

(4) Day nurseries licensed by and subject to the requirements of the Virginia Department of Social Services;

(5) Tourist homes;

(6) Parking decks and parking garages serving uses permitted in this district, provided that the following conditions shall apply:

a. No portion of the ground floor of such structure located along a principal or priority street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal priority street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage having less than five feet of its height above the grade level of the building façade along the street frontage, the provisions of this paragraph prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade. Upper stories of such structure may be used for parking or related circulation of vehicles subject to the fenestration requirements set forth in Section 30-428.11.

b. Except as provided in paragraph a of this subsection, parking spaces contained therein shall be

screened from view from abutting streets by structural material of not less than 45 percent opacity.

c. A plan of development shall be required as set forth in Article X of this chapter.

(7) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts; provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(8) Lodges and similar meeting places;

(9) Banks and savings and loan offices, including accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses;

(10) Uses owned and operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment, or housing of persons who are currently using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(11) Wireless communication facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(12) Hotels, provided that the following conditions shall apply:

a. No such use shall be located on a transitional site.

b. A plan of development shall be required as set forth in Article X of this chapter.

(13) Adult day care facilities;

(14) Art galleries;

(15) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned and operated by a governmental agency or a nonprofit organization, and other uses required for the performance of a governmental function;

(16) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(Code 1993, § 32-428.1; Code 2004, § 114-428.1; Code 2015, § 30-428.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2007-338-2008-11, § 1, 1-14-2008; Ord. No. 2019-169, § 1(30-428.1), 7-22-2019; Ord. No. 2019-343, § 1(30-428.1), 6-22-2020)

Sec. 30-428.2. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the RO-3 Residential-Office District by conditional use permit as set forth in Article X of this chapter:

(1) Adult care residences.

(2) Group homes.

(3) Lodginghouses.

(Code 1993, § 32-428.2; Code 2004, § 114-428.2; Code 2015, § 30-428.2)

Sec. 30-428.3. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the RO-3 Residential-Office District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Dwelling units within accessory buildings.

(3) Incidental uses located within multifamily dwellings, hotels, and office buildings designed and scaled for the convenience of the occupants thereof, including shops for the sale of convenience goods, eating and drinking establishments, automated teller machines and personal service establishments, provided that the following conditions shall apply:

a. Such uses are also intended for use by the general public with direct entrances from the street.

b. There are direct public entrances to such uses from both the exterior and the interior of the building.

c. Such uses shall not exceed 1,500 square feet of floor area, but such calculations shall not include outdoor dining areas.

d. Outdoor dining areas shall not exceed 500 square feet.

(Code 1993, § 32-428.3; Code 2004, § 114-428.3; Code 2015, § 30-428.3; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2019-169, § 1(30-428.3), 7-22-2019)

Sec. 30-428.4. Reserved.

Sec. 30-428.5. Lot area and width.

Minimum lot areas and lot widths for single-family and two-family dwellings shall be as required in the R-7 district and set forth in Section 30-413.5.

(Code 1993, § 32-428.5; Code 2004, § 114-428.5; Code 2015, § 30-428.5; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-428.6. Yards.

Yard regulations in the RO-3 Residential-Office District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 15 feet (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards shall be as follows:

a. Side and rear yards for single-family and two-family dwellings and buildings accessory thereto shall be as required in the R-7 district and set forth in Section 30-413.6.

b. Side and rear yards for newly constructed multifamily dwellings and buildings accessory thereto shall be not less than 15 feet in depth.

c. Side and rear yards for uses and buildings other than single-family, two-family and multifamily dwellings and buildings accessory thereto shall be not less than ten feet in depth.

(Code 1993, § 32-428.6; Code 2004, § 114-428.6; Code 2015, § 30-428.6; Ord. No. 2019-169, § 1(30-428.6), 7-22-2019; Ord. No. 2020-171, § 1(30-428.6), 9-28-2020)

Sec. 30-428.7. Floor area and usable open space.

The following floor area and usable open space ratios shall be applicable to uses other than single-family and two-family dwellings in the RO-3 Residential-Office District (see Section 30-1220):

(1) *Floor area ratio.* The floor area ratio shall not exceed 4.6, provided that additional floor area shall be permitted for nondwelling uses as set forth in Section 30-690.

(2) *Usable open space ratio.* A usable open space ratio of not less than 0.10 shall be provided for dwelling uses.

(Code 1993, § 32-428.7; Code 2004, § 114-428.7; Code 2015, § 30-428.7)

Sec. 30-428.8. Land area coverage.

In the RO-3 Residential-Office District, portions of buildings over 35 feet in height shall occupy not more than 35 percent of land area (see the definition of the term "land area" in Section 30-1220).

(Code 1993, § 32-428.8; Code 2004, § 114-428.8; Code 2015, § 30-428.8)

Sec. 30-428.9. Height.

In the RO-3 Residential-Office District, there shall be no maximum height limit, provided that no portion of a building shall penetrate inclined planes originating at the centerlines of abutting streets and extending over the lot at an inclination of one foot horizontal for each three feet vertical along any street frontage where a front yard is required and one foot horizontal for each four feet vertical along other street frontages and provided, further, that such planes may be penetrated by building walls adjacent to a street for a horizontal distance not exceeding 50 percent of the length of the property line along such street.

(Code 1993, § 32-428.9; Code 2004, § 114-428.9; Code 2015, § 30-428.9)

Sec. 30-428.10. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply along both the principal street frontage of the lot and the priority street frontage, if applicable.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage or priority street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2015, § 30-428.10; Ord. No. 2019-169, § 2(30-428.10), 7-22-2019)

Sec. 30-428.11. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the RO-3 Residential-Office District shall be as set forth in this section. On a lot having more than one street frontage, this section shall apply along both the principal street frontage and priority street frontage.

(a) *Street level story.*

(1) *Non-dwelling uses.* For non-dwelling uses other than those listed in Section 30-428.1(2), 30-428.1(5), 30-428.1(8), 30-428.1(10), 30-428.1(14), and 30-428.1(15), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (a)(1) shall not apply.

(2) *Dwelling uses.* For dwelling uses and tourist homes, windows or glass doors, or both, that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (b)(1) shall not apply. In all cases, windows shall be double-hung, single-hung, awning, or casement type and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(b) *Upper stories.*

(1) *Non-dwelling uses.* For non-dwelling uses other than those listed in subsection (a)(1) of this section,

windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

(2) *Dwelling uses.* For dwelling uses and tourist homes, windows or glass doors, or both, that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning, or casement type and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2015, § 30-428.11; Ord. No. 2019-169, § 2(30-428.11), 7-22-2019)

DIVISION 16. HO HOTEL-OFFICE DISTRICT

Sec. 30-430.1. Permitted principal uses.

The following uses of buildings and premises shall be permitted in the HO district:

(1) Any principal use permitted in the R-1 district as set forth in Section 30-402.1;

(2) Single-family attached dwellings and uses and structures customarily incidental to attached dwelling developments, provided that:

a. Appropriate agreements and covenants approved by the City Attorney provide for the perpetuation and maintenance of all areas to be held in common ownership by property owners within such developments;

b. Architectural variations shall be provided among units within any series of more than four units;

c. A plan of development shall be required as set forth in Article X of this chapter for any development with three or more newly constructed single-family attached dwellings;

(3) Two-family dwellings, provided that when more than one main building is to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(4) Multifamily dwellings, provided that when more than one main building or more than ten dwelling units are to be located on a lot, a plan of development shall be required as set forth in Article X of this chapter;

(5) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(6) Tourist homes situated on Federal highways;

(7) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way;

(8) Parking decks serving uses permitted in this district, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(9) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts; provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(10) Private schools offering instruction in skills practiced in connection with the operation of uses permitted in this district;

(11) Lodges and similar meeting places;

(12) Banks and savings and loan offices, including accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that when any bank or savings and loan office includes drive-up facilities or an automated teller machine accessible from the exterior of the building, the following conditions shall apply:

a. No such use shall be located on a transitional site;

b. The floor area of the building devoted to such use shall not exceed 2,500 square feet, and not more than two drive-up teller lanes shall be provided on the premises;

c. A plan of development shall be required as set forth in Article X of this chapter;

(13) Funeral homes, provided that:

a. Adequate space shall be provided on the premises for the formation of funeral processions, and no such activity shall take place on public streets;

b. A plan of development shall be required as set forth in Article X of this chapter;

(14) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that a plan of development shall be required as set forth in Article X of this chapter;

(15) Radio broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed ten feet above ground level, or in the case of a building-mounted antenna, ten feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(16) Communications centers and telephone repeater stations operated by public service corporations, provided that a plan of development shall be required as set forth in Article X of this chapter;

(17) Hotels and motels, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. A plan of development shall be required as set forth in Article X of this chapter;

(18) Adult day care facilities;

(19) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(Code 1993, § 32-430.1; Code 2004, § 114-430.1; Code 2015, § 30-430.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2007-338-2008-11, § 1, 1-14-2008; Ord. No. 2019-343, § 1(30-430.1), 6-22-2020)

Sec. 30-430.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the HO Hotel-Office District (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Retail stores and shops, eating and drinking establishments, entertainment and recreational uses, personal service establishments, automated teller machines accessible only from the interior of buildings, travel

agencies and airline ticket offices; when such uses are located within office buildings, multifamily dwellings, apartment hotels, hotels, motels, hospitals or parking garages; provided that the aggregate floor area devoted to such uses shall not exceed ten percent of the total floor area of the building in which they are located.

(Code 1993, § 32-430.2; Code 2004, § 114-430.2; Code 2015, § 30-430.2; Ord. No. 2006-43-63, § 1, 3-13-2006)

Sec. 30-430.3. Reserved.

Sec. 30-430.4. Lot area and width.

Minimum lot areas and lot widths for single-family and two-family dwellings shall be as required in the R-7 district and set forth in Section 30-413.5.

(Code 1993, § 32-430.4; Code 2004, § 114-430.4; Code 2015, § 30-430.4; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-430.5. Yards.

Yard regulations in the HO Hotel-Office District shall be as follows:

(1) *Front yard.* No front yard shall be required for nondwelling uses. Buildings or portions thereof devoted to dwelling uses shall have front yards of not less than 15 feet (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* No side or rear yard shall be required for portions of buildings 35 feet or less in height devoted to nondwelling uses. Side and rear yards adjacent to portions of buildings over 35 feet in height or portions of buildings devoted to newly constructed multifamily dwelling uses shall be not less than 15 feet in depth, provided that side and rear yards for single-family and two-family dwellings shall be as required in the R-7 district and set forth in Section 30-413.6.

(3) *Spaces between buildings on same lot.* Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

(Code 1993, § 32-430.5; Code 2004, § 114-430.5; Code 2015, § 30-430.5; Ord. No. 2020-171, § 1(30-430.5), 9-28-2020)

Sec. 30-430.6. Floor area and usable open space.

In the HO Hotel-Office District, the following floor area and usable open space ratios shall be applicable to uses other than single-family and two-family dwellings (see Section 30-1220):

(1) *Floor area ratio.* The floor area ratio shall not exceed 4.6, provided that additional floor area shall be permitted for nondwelling uses as set forth in Section 30-690.

(2) *Usable open space ratio.* A usable open space ratio of not less than 0.10 shall be provided for dwelling uses.

(Code 1993, § 32-430.6; Code 2004, § 114-430.6; Code 2015, § 30-430.6)

Sec. 30-430.7. Land area coverage.

In the HO Hotel-Office District, portions of buildings over 35 feet in height shall occupy not more than 35 percent of land area (see the definition of the term "land area" in Section 30-1220).

(Code 1993, § 32-430.7; Code 2004, § 114-430.7; Code 2015, § 30-430.7)

Sec. 30-430.8. Height.

In the HO Hotel-Office District, there shall be no maximum height limit, provided that no portion of a building shall penetrate inclined planes originating at the centerlines of abutting streets and extending over the lot at an inclination of one foot horizontal for each three feet vertical along any street frontage where a front yard is required and one foot horizontal for each four feet vertical along other street frontages and provided, further, that such planes may be penetrated by building walls adjacent to a street for a horizontal distance not exceeding 50 percent of the length of the property line along such street.

(Code 1993, § 32-430.8; Code 2004, § 114-430.8; Code 2015, § 30-430.8)

DIVISION 17. I INSTITUTIONAL DISTRICT

Sec. 30-432.1. Permitted principal uses.

(a) The uses of buildings and premises listed in this section shall be permitted in the I district, subject to the master plan requirements set forth in this division. A plan of development shall be required as set forth in Article X of this chapter for any use other than: a single-family detached dwelling; a parking area that constitutes a principal use; a right-of-way, easement or appurtenance for public utilities or public transportation; or a use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Single-family detached dwellings, provided that the regulations applicable to such uses in the R-5 district shall be met;

(2) Day nurseries, provided that:

a. A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the premises, but not within a required front yard;

b. The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard;

c. No play equipment or structure shall be located within a front yard or a required side yard;

(3) Churches, chapels, convents, monasteries and other places of worship, adjunct residential and administrative facilities and other uses operated by, and in conjunction with, religious institutions;

(4) Public and private nonprofit schools and educational institutions, including dormitory, fraternity and sorority houses, classroom, administrative, recreational and student service facilities owned by or operated under the control of such school or institution, provided that no outdoor stadium or grandstand having a seating capacity in excess of 2,500 persons shall be permitted, and provided further that an indoor arena or auditorium having a seating capacity in excess of 2,500 persons shall be used only for educational, religious, cultural, civic, athletic and entertainment activities sponsored by or under the control of such institution, its student government, alumni association or other university (i.e., public and private nonprofit schools and educational institutions) related organization;

(5) Libraries, museums and similar uses operated by public or nonprofit agencies;

(6) Hospitals, public health clinics, adult care residences, group homes, adult day care facilities and nursing homes;

(7) Philanthropic, charitable and eleemosynary institutions, including social service delivery uses operated by such institutions;

(8) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(9) Parking areas serving uses permitted in this district, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(10) Parking decks serving uses permitted in this district, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

(11) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public

utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, utility storage yards and similar uses;

(12) Wireless communications facilities and microwave relay facilities, including support structures, on property owned by the City, subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(Code 1993, § 32-432.1; Code 2004, § 114-432.1; Code 2015, § 30-432.1; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-432.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses shall be permitted in the I district (see Article VI, Division 9 of this chapter):

(1) Any accessory use or structure permitted in the R-1 district as set forth in Section 30-402.2.

(2) Automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units, provided there shall be no signs or other evidence of an automated teller machine visible from the exterior of the building.

(Code 1993, § 32-432.2; Code 2004, § 114-432.2; Code 2015, § 30-432.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006)

Sec. 30-432.3. Master plan requirements.

The Planning Commission shall not recommend to the Council inclusion of any property in the I Institutional District until a master plan for development of the property involved has been approved by the Commission. Such master plan shall be submitted to the Commission by the owner of the property at least 30 days prior to the introduction of the ordinance to include the property in the I district. The plan shall constitute a scaled graphic representation of the following information together with necessary explanatory material:

(1) The boundaries of the area involved and the ownership of properties contained therein, as well as all existing public streets and alleys within and adjacent to the site.

(2) The location and use of all existing buildings on the site, as well as the approximate location, height, dimensions and general use of all proposed buildings or major additions to existing buildings. If a site is in excess of ten acres, only the location and use of existing buildings and the general location, extent and use of proposed buildings or major additions to existing buildings need be shown.

(3) The location of all existing parking facilities and the approximate location of all proposed parking facilities, including the approximate number of parking spaces at each location and all existing and proposed means of vehicular access to parking areas and to public streets and alleys. Any proposed changes in the location, width or character of public streets and alleys within and adjacent to the site shall also be shown on the plan.

(4) The general use of major existing and proposed open spaces within the site and specific features of the plan, such as screening, buffering or retention of natural areas, which are intended to enhance compatibility with adjacent properties.

(Code 1993, § 32-432.3; Code 2004, § 114-432.3; Code 2015, § 30-432.3)

Sec. 30-432.4. Action of Planning Commission.

(a) The Planning Commission shall approve the master plan when it finds, after receiving a report from the Director of Planning and Development Review and after holding a public hearing thereon, that the development shown on the master plan is in compliance with the requirements of the I Institutional District and other applicable sections of this chapter and that such development will adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property; will not unreasonably impair an adequate supply of light and air to adjacent property; will not unreasonably increase congestion in streets; will not increase public danger from fire or otherwise unreasonably affect public safety; and will not diminish or impair the established values of property in surrounding areas; otherwise, the Commission shall disapprove the plan.

(b) The action of the Commission shall be based upon a finding of fact which shall be reduced to writing and preserved among its records. The Commission shall submit to the Council a copy of its findings and a copy of the master plan, together with its recommendation relative to the ordinance to include the property in the I district.

(Code 1993, § 32-432.4; Code 2004, § 114-432.4; Code 2015, § 30-432.4; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-432.5. Compliance with master plan.

Upon submission of a master plan for institutional development as set forth in this division and inclusion of the property in an I Institutional District, no plan of development as set forth in Article X of this chapter shall be approved nor shall any building permit or occupancy permit be issued unless such is deemed to be in compliance with this chapter and substantially in accordance with the submitted master plan or subsequent amendment thereto.

(Code 1993, § 32-432.5; Code 2004, § 114-432.5; Code 2015, § 30-432.5)

Sec. 30-432.6. Reserved.

Sec. 30-432.7. Yards.

Yard regulations in the I Institutional District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 15 feet, provided that within 50 feet of an adjoining lot in an R or RO district, the minimum front yard requirement of such R or RO district shall be applicable (see Article VI, Division 4 of this chapter).

(2) *Side and rear yards.* Side and rear yards for uses other than single-family dwellings and day nurseries shall be not less than 15 feet in depth.

(3) *Spaces between buildings on same lot.* Spaces between buildings on the same lot shall be as follows:

a. Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 20 feet.

b. Where two or more buildings, neither of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

(Code 1993, § 32-432.7; Code 2004, § 114-432.7; Code 2015, § 30-432.7)

Sec. 30-432.8. Lot coverage.

Maximum lot coverage in the I Institutional District shall not exceed 50 percent of the area of the lot.

(Code 1993, § 32-432.8; Code 2004, § 114-432.8; Code 2015, § 30-432.8)

Sec. 30-432.9. Height.

There shall be no maximum height limit in the I Institutional District, provided that:

(1) No portion of any building shall penetrate an inclined plane originating at the centerline of an abutting street and extending over the lot at an inclination of one foot horizontal for each one foot vertical along any street frontage where a front yard is required and one foot horizontal for each 1 1/2 feet vertical along other street frontages.

(2) No portion of any building shall penetrate inclined planes originating ten feet inside of and 35 feet above interior side and rear lot lines coincidental with or across an alley from any boundary of this district, such planes running the entire length of the lot lines and extending over the district at an inclination of one foot horizontal for each one foot vertical.

(Code 1993, § 32-432.9; Code 2004, § 114-432.9; Code 2015, § 30-432.9)

DIVISION 18. UB URBAN BUSINESS DISTRICT

Sec. 30-433.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the UB Urban Business District is to encourage business areas with a densely developed pedestrian-oriented urban shopping character, compatible with adjacent residential neighborhoods, and with minimal disruption from vehicle-oriented land uses and features that would

detract from a safe, convenient and economically viable pedestrian environment. The district is intended to promote continuity of storefront character along principal street frontages, with minimum interruption by driveways and vehicle traffic across public sidewalk areas. The regulations within the district are intended to preserve the predominant scale and character of existing urban shopping areas, promote retention of existing structures and encourage that new development be compatible with such existing areas and structures.

(Code 1993, § 32-433.1; Code 2004, § 114-433.1; Code 2015, § 30-433.1)

Sec. 30-433.2. Permitted principal and accessory uses.

The uses of buildings and premises listed in this section shall be permitted in the UB district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district. A plan of development as set forth in Article X of this chapter shall be required for such uses as specified in this section, and for construction of any new building or any addition to an existing building when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage, provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities;

(2) Art galleries;

(3) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any automated teller machine accessible from the exterior of a building;

(4) Catering businesses, provided that not more than five persons are employed on the premises in the conduct of any such business;

(5) Contractors' shops, service and supply establishments, wholesale and distribution establishments and similar uses, provided that the following conditions shall be met:

a. Portions of buildings adjacent to street frontages shall be devoted to office, showroom, display or other facilities accessible to the public, except that on a corner lot this provision shall apply only to the principal street frontage;

b. Not more than 2,000 square feet of floor area shall be used for warehouse purposes;

c. There shall be no outside storage of equipment, materials or supplies;

d. No service or delivery vehicle exceeding an empty weight of 6,500 pounds shall be used in connection with such use;

(6) Day nurseries licensed by and subject to the requirements of the State of Virginia Department of Social Services;

(7) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 50 pounds dry weight and the total capacity of all laundry machines shall not exceed 125 pounds dry weight;

(8) Dwelling units contained within the same building as other permitted principal uses, provided that such dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the ground floor area devoted to other permitted principal uses shall be a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building and shall be not less than 20 feet in depth along the entire length of a principal street frontage, except for ingress and egress (see Section 30-800.1 for provisions for nonconforming dwelling uses);

(9) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(10) Laundromats and laundry and dry cleaning pick-up stations;

(11) Libraries, museums, parks and noncommercial recreational facilities, when such uses are owned or operated by a governmental agency or a nonprofit organization; and other uses required for the performance of a governmental function and primarily intended to serve residents of adjoining neighborhoods;

(11.1) Nightclubs lawfully existing on the effective date of the ordinance from which this provision is derived, provided that no nightclub use shall be enlarged to occupy a greater floor area than was occupied by the use on the effective date of the ordinance from which this provision is derived, and provided further that if such use is discontinued for a period of two years or longer, it shall no longer be considered a permitted use;

(12) Office supply, business and office service, photocopy and custom printing establishments, provided that not more than five persons are employed on the premises in the conduct of any printing establishment;

(13) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts;

(14) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way, and provided further that a plan of development shall be required as set forth in Article X of this chapter for construction of any parking area for five or more vehicles which is accessory to and located on the same lot as a use for which a plan of development is required;

(15) Parking decks and parking garages, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. All portions of such structure located along a street that generally functions as the primary orientation of businesses in the district shall not be used for parking of vehicles, but shall be devoted to other permitted principal uses or to means of pedestrian or vehicle access;

d. A plan of development shall be required as set forth in Article X of this chapter;

(16) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments; provided that not more than five persons are employed on the premises in the conduct of any repair or fabrication activity;

(17) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building;

(18) Postal and package mailing services, but not including package distribution centers;

(19) Professional, business and vocational schools when located above the ground floor of buildings, and provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith;

(20) Recreation and entertainment uses, including theaters, museums and amusement centers; when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a transitional site;

(21) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas

outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(22) Retail stores and shops;

(23) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(24) Sales lots for Christmas trees, vegetable stands and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site;

(25) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building, no internal combustion engine shall be repaired or serviced, and not more than five persons shall be employed on the premises in the conduct of any service or repair activity;

(26) Shopping centers containing uses permitted in this district;

(27) Tourist homes;

(28) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, in accordance with the additional requirements of Sections 30-692.1 through 30-692.6, provided that a plan of development shall be required as set forth in Article X of this chapter;

(28.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(29) Accessory uses and structures, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 1993, § 32-433.2; Code 2004, § 114-433.2; Code 2015, § 30-433.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2013-237-225, § 1, 12-9-2013; Ord. No. 2019-343, § 1(30-433.2), 6-22-2020)

Sec. 30-433.3. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the UB district by conditional use permit as set forth in Article X of this chapter:

(1) Retail sales of liquor.

(Code 2004, § 114-433.3; Code 2015, § 30-433.3; Ord. No. 2011-29-150, § 1, 9-12-2011)

Sec. 30-433.4. Reserved.

Sec. 30-433.5. Yard requirements.

The following yard requirements shall be applicable in the UB Urban Business District (see Article VI, Division 4 of this chapter for supplemental yard regulations):

(1) *Front yard.* No front yard shall be required, except that no newly constructed building or addition to an existing building shall extend closer to the street than any building on an abutting lot. In no case shall a front yard greater than 15 feet in depth be required on any lot.

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts property in an R or RO district, there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district, there shall be a rear yard of not less than 20 feet in depth.

(Code 1993, § 32-433.5; Code 2004, § 114-433.5; Code 2015, § 30-433.5)

Sec. 30-433.6. Screening requirements.

(a) In the UB Urban Business District, where a side or rear lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen of not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall of not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(b) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-433.6; Code 2004, § 114-433.6; Code 2015, § 30-433.6)

Sec. 30-433.7. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles in the UB Urban Business District shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply only along the principal street frontage of the lot as defined in Section 30-1220.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this subsection, principal street frontage shall be as defined in Section 30-1220.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 1993, § 32-433.7; Code 2004, § 114-433.7; Code 2015, § 30-433.7)

Sec. 30-433.8. Height limit.

In the UB Urban Business District, no building or structure shall exceed 28 feet in height (see Article VI, Division 6 of this chapter for height exceptions).

(Code 1993, § 32-433.8; Code 2004, § 114-433.8; Code 2015, § 30-433.8)

DIVISION 18.1. UB-2 URBAN BUSINESS DISTRICT

Sec. 30-433.10. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the UB-2 Urban Business District is to encourage business areas with mixed uses and a densely developed pedestrian-oriented urban shopping character, compatible with adjacent residential neighborhoods, and with minimal disruption from vehicle-oriented land uses and features that would detract from a safe, convenient and economically viable pedestrian environment. The district is intended to be more intensive and more mixed use in character than the UB Urban Business District. It is intended to promote continuity of storefront character along principal street frontages, with minimum interruption by driveways and vehicle traffic across public sidewalk areas, and to promote continuity of building setbacks and heights and to encourage an active pedestrian environment by providing for windows in building façades along principal street

frontages. The regulations within the district are intended to preserve the predominant scale and character of existing urban shopping areas, promote retention of existing structures and encourage that new development be compatible with such existing areas and structures.

(Code 2004, § 114-433.10; Code 2015, § 30-433.10; Ord. No. 2008-2-55, § 1, 3-24-2008)

Sec. 30-433.11. Permitted principal and accessory uses.

The uses of buildings and premises listed in this section shall be permitted in the UB-2 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district. A plan of development as set forth in Article X of this chapter shall be required for such uses as specified in this section, and for construction of any new building or any addition to an existing building when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage, provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities;

(2) Art galleries;

(3) Banks, savings and loan offices and similar financial services, including accessory ATMs accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any ATM accessible from the exterior of a building;

(4) Catering businesses;

(5) Day nurseries licensed by and subject to the requirements of the State Department of Social Services;

(6) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight;

(7) Dwelling units contained within the same building as other permitted principal uses, provided that such dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other permitted principal uses, and such uses shall have a depth of not less than 20 feet along the entire length of a principal street frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units (see Section 30-800.1 for provisions for nonconforming dwelling uses);

(8) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(9) Hotels, provided that:

a. No such use shall be located on a transitional site.

b. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length.

c. The ground floor of portions of buildings adjacent to principal street frontages shall be devoted to those uses specified in subsection (2), (3), (8), (16), (22) or (23) of this section, provided that not more than 30 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use.

d. A plan of development shall be required as set forth in Article X of this chapter.

(10) Laundromats and dry cleaning pick-up stations;

(11) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a nonprofit organization;

(11.1) Nightclubs lawfully existing on the effective date of the ordinance from which this provision is

derived, provided that no nightclub use shall be enlarged to occupy a greater floor area than was occupied by the use on the effective date of the ordinance from which this provision is derived, and provided further that if such use is discontinued for a period of two years or longer, it shall no longer be considered a permitted use;

(12) Office supply, business and office service, photocopy and custom printing establishments;

(13) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the arts;

(14) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way, and provided further that a plan of development shall be required as set forth in Article X of this chapter for construction of any parking area for five or more vehicles which is accessory to and located on the same lot as a use for which a plan of development is required;

(15) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this subsection prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade;

b. Except as provided in subsection (15)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

d. A plan of development shall be required as set forth in Article X of this chapter;

(16) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments;

(17) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building;

(18) Postal and package mailing services, but not including distribution centers;

(19) Professional, business and vocational schools, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith;

(20) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(21) Recreation and entertainment uses, including theaters, museums and amusement centers; when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a

transitional site;

(22) Restaurants, tea rooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(23) Retail stores and shops;

(24) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses, unless owned or operated by a government agency;

(25) Sales lots for Christmas trees, vegetable stands and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site;

(26) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building and no internal combustion engine shall be repaired or serviced;

(27) Shopping centers containing uses permitted in this district;

(28) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises, including the storage and distribution of such goods in conjunction therewith;

(29) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(30) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, in accordance with the additional requirements of Sections 30-692.1 through 30-692.6, provided that a plan of development shall be required as set forth in Article X of this chapter;

(30.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(31) Accessory uses and structures, including ATM's accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 2004, § 114-433.11; Code 2015, § 30-433.11; Ord. No. 2008-2-55, § 1, 3-24-2008; Ord. No. 2009-40-57, § 1, 4-27-2009; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2019-343, § 1(30-433.11), 6-22-2020)

Sec. 30-433.11.1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the UB-2 district by conditional use permit as set forth in Article X of this chapter:

(1) Retail sales of liquor.

(Code 2004, § 114-433.11.1; Code 2015, § 30-433.11.1; Ord. No. 2011-29-150, § 2, 9-12-2011)

Sec. 30-433.12. Nonconforming uses.

Alterations to buildings or structures devoted to nonconforming uses in the UB-2 district shall be subject to the provisions of Section 30-800.1 of this chapter.

(Code 2004, § 114-433.12; Code 2015, § 30-433.12; Ord. No. 2008-2-55, § 1, 3-24-2008)

Sec. 30-433.13. Yard requirements.

The following yard requirements shall be applicable in the UB-2 Urban Business District (see Article VI, Division 4 of this chapter for supplemental yard regulations):

(1) *Front yard.*

a. Where no existing buildings are located on adjacent lots along the same street frontage, no front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, except as may be authorized pursuant to subsection (1)d of this section.

b. Where an existing building is located on one adjacent lot along the same street frontage, the front yard shall be the same as the front yard provided for such existing building, but in no case greater than ten feet. Where the front yard of such existing building is greater than ten feet, the front yard requirement shall be ten feet. A front yard with a depth greater than permitted by this paragraphmay be authorized pursuant to subsection (1)d of this section.

c. Where existing buildings are located on both adjacent lots along the same street frontage, the front yard shall be the same as the front yard provided for the existing building closest to the street, but in no case greater than ten feet. Where the front yard of the existing building closest to the street is greater than ten feet, the front yard requirement shall be ten feet. A front yard with a depth greater than permitted by this subsection may be authorized pursuant to subsection (1)d of this section.

d. A front yard with a depth greater than permitted by application of the provisions of subsections (1)a through d of this section may be provided when such front yard is improved for purposes of a pedestrian plaza or outdoor dining area as permitted by Section 30-433.11 and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

e. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted, and shall not be subject to the provisions of this subsection.

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts property in an R or RO district, there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district, there shall be a rear yard of not less than 20 feet in depth.

(Code 2004, § 114-433.13; Code 2015, § 30-433.13; Ord. No. 2008-2-55, § 1, 3-24-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-433.14. Screening requirements.

(a) In the UB-2 Urban Business District, where a side or rear lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen of not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall of not less than four feet in height erected along such lot line, but not within 15 feet

of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(b) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 2004, § 114-433.14; Code 2015, § 30-433.14; Ord. No. 2008-2-55, § 1, 3-24-2008)

Sec. 30-433.15. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles in the UB-2 Urban Business District shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply only along the principal street frontage of the lot as defined in Section 30-1220.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this subsection, principal street frontage shall be as defined in Section 30-1220.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-433.15; Code 2015, § 30-433.15; Ord. No. 2008-2-55, § 1, 3-24-2008)

Sec. 30-433.16. Height limit.

Height regulations in the UB-2 district shall be as follows:

(1) *Maximum height in general.* No building shall exceed three stories in height, provided that where an existing building on the same lot or on an adjacent lot along the same street frontage is greater than three stories in height, no building shall exceed four stories in height. For purposes of this Section 30-433.16, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 14 feet, except that the ground floor of a building may be of greater height.

(2) *Maximum height in special cases.*

a. Where greater than 50 percent of the lineal block frontage is comprised of lots occupied by existing buildings of greater than three stories in height, the maximum permitted height shall be four stories.

b. Where there are no buildings existing on an entire block at the time of development, or where there are existing buildings to be retained and vacant land to be developed on an entire block, and where the entire block is to be developed under the same ownership or control pursuant to an overall development plan, the maximum permitted height shall be four stories.

(3) *Maximum roofline limited to roofline nearest to street frontage.* In any case where a newly constructed building or addition to an existing building is permitted to exceed three stories in height pursuant to subsection (1) or (2)a of this section, the roofline nearest to the street frontage of the lot shall be the maximum permitted roofline of the building.

(4) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(5) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2004, § 114-433.16; Code 2015, § 30-433.16; Ord. No. 2008-2-55, § 1, 3-24-2008; Ord. No. 2009-40-57, § 1, 4-27-2009; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-433.17. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the UB-2 district shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot.

(1) *Street level story.* For nondwelling uses, other than those listed in Section 30-433.11(1), (5), (11) and (29), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection shall not apply.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-433.11(1), (5), (11) and (29), windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2004, § 114-433.17; Code 2015, § 30-433.17; Ord. No. 2008-2-55, § 1, 3-24-2008; Ord. No. 2009-40-57, § 1, 4-27-2009; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

DIVISION 19. B-1 NEIGHBORHOOD BUSINESS DISTRICT

Sec. 30-434.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-1 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district; no newly constructed building shall contain more than 10,000 square feet of floor area; and the distribution of products or the conduct of services off the premises shall not involve the use of more than two delivery vehicles nor any vehicle having an empty weight exceeding 6,500 pounds:

(1) Adult day care facilities;

(2) Art galleries;

(3) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any automated teller machine accessible from the exterior of a building;

(4) Churches and other places of worship, which may include the serving of food for charitable or fellowship purposes, and as an accessory use the temporary housing of not more than 30 homeless individuals within churches and other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(5) Day nurseries licensed by and subject to the requirements of the State of Virginia Department of Social Services;

(6) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 50 pounds dry weight and the total capacity of all laundry machines shall not exceed

125 pounds dry weight, and provided further that no such use shall be located on a transitional site;

(7) Dwelling units contained within the same building as other permitted principal uses, provided that such dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the ground floor area devoted to other permitted principal uses shall be a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building and shall be not less than 20 feet in depth along the entire length of a principal street frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units (see Section 30-800.1 for provisions for nonconforming dwelling uses);

(8) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(9) Laundromats and laundry and dry cleaning pick-up stations, provided that such uses shall not be operated between the hours of 11:00 p.m. and 7:00 a.m.;

(10) Libraries, museums, schools, parks and recreational facilities owned or operated by a governmental agency, and other uses required for the performance of a governmental function and primarily intended to serve residents of adjoining neighborhoods;

(11) Office supply, business and office service, photocopy and custom printing establishments, provided that not more than five persons are employed on the premises in the conduct of any printing establishment;

(12) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts;

(13) Parking areas serving uses permitted in this district, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(14) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments; provided that not more than five persons are employed on the premises in the conduct of any repair or fabrication activity;

(15) Radio broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed ten feet above ground level, or in the case of a building-mounted antenna, ten feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(16) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including catering businesses in conjunction therewith, but not including establishments providing live entertainment or establishments where food or beverage is intended to be consumed on the premises outside a completely enclosed building;

(17) Retail stores and shops, provided that not more than 30 percent of the floor area may be devoted to storage of merchandise to be sold at retail on the premises;

(18) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(19) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building, no internal combustion engine shall

be repaired or serviced, and not more than five persons shall be employed on the premises in the conduct of any service or repair activity;

(20) Shopping centers containing uses permitted in this district, provided that a plan of development shall be required as set forth in Article X of this chapter;

(21) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(21.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(22) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units, provided that outdoor accessory uses such as displays, temporary sales areas, play equipment and similar activities shall not be permitted, nor shall any pay phone or vending machine be located outside of a completely enclosed building. Newspaper boxes shall not be subject to the limitations of this subsection.

(Code 1993, § 32-434.1; Code 2004, § 114-434.1; Code 2015, § 30-434.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2013-237-225, § 1, 12-9-2013; Ord. No. 2019-343, § 1(30-434.1), 6-22-2020)

Sec. 30-434.2. Reserved.

Sec. 30-434.3. Yards.

Yard regulations in the B-1 Neighborhood Business District shall be as follows:

(1) *Front yard.* No front yard shall be required, except that no newly constructed building or addition to an existing building shall extend closer to the street than any building on an abutting lot. In no case shall a front yard greater than 15 feet in depth be required on any lot (see Article VI, Division 4 of this chapter).

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts a property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 20 feet in depth.

(Code 1993, § 32-434.3; Code 2004, § 114-434.3; Code 2015, § 30-434.3)

Sec. 30-434.4. Screening.

Screening regulations in the B-1 Neighborhood Business District shall be as follows:

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Where a use prohibited on a transitional site is situated across an alley from the side lot line of property in an R district, there shall be an opaque structural fence or wall not less than four feet in height erected along the alley line, but not within 15 feet of any street line.

(3) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-434.4; Code 2004, § 114-434.4; Code 2015, § 30-434.4)

Sec. 30-434.5. Height.

No building or structure in the B-1 Neighborhood Business District shall exceed 25 feet in height (see Article VI, Division 6 of this chapter).

(Code 1993, § 32-434.5; Code 2004, § 114-434.5; Code 2015, § 30-434.5)

DIVISION 20. B-2 COMMUNITY BUSINESS DISTRICT

Sec. 30-436.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-2 district, provided that no use which includes a drive-up facility shall be located on a transitional site. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section; any use with drive-up facilities; and any newly constructed building with greater than 50,000 square feet of floor area; provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities;

(2) Art galleries;

(3) Auto service centers, provided that no such use shall be located on a transitional site, and provided further that the following conditions are met for any such use that includes facilities for dispensing motor fuels:

a. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

b. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor fuels may be located within required yards adjacent to streets, but not within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands may extend to within ten feet of street lines;

c. A plan of development shall be required as set forth in Article X of this chapter;

(4) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any automated teller machine accessible from the exterior of a building;

(5) Catering businesses, provided that not more than five persons are employed on the premises in the conduct of any such business;

(6) Churches and other places of worship, which may include the serving of food for charitable or fellowship purposes, and as an accessory use the temporary housing of not more than 30 homeless individuals within churches and other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(7) Communications centers and telephone repeater stations operated by public service corporations;

(8) Contractors' shops, offices and display rooms, provided that the following conditions are met:

a. Not more than 2,000 square feet of floor area shall be used for warehouse purposes;

b. There shall be no outside storage of equipment, materials or supplies;

c. No service or delivery vehicle exceeding an empty weight of 6,500 pounds shall be used in connection with such use;

(9) Custom printing and engraving shops not involving the printing of periodicals, books, catalogs or similar items requiring frequent shipment or delivery of large quantities of materials, provided that not more than five persons shall be employed in the conduct of such business;

(10) Day nurseries licensed by and subject to the requirements of the State of Virginia Department of Social Services;

(11) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight, and provided further that no such use shall be located on a transitional site;

(12) Dwelling units contained within the same building as other permitted principal uses, provided that such

dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the ground floor area devoted to other permitted principal uses shall be a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building and shall be not less than 20 feet in depth along the entire length of a principal street frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units (see Section 30-800.1 for provisions for nonconforming dwelling uses);

(13) Funeral homes;

(14) Furniture repair and upholstery shops, provided that the total floor area of work rooms shall not exceed 2,000 square feet;

(15) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(16) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that a plan of development shall be required as set forth in Article X of this chapter;

(17) Hotels and motels, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. A plan of development shall be required as set forth in Article X of this chapter;

(18) Janitorial and custodial service and supply establishments occupying not more than 2,000 square feet of floor area and not involving the use of delivery or service vehicles having an empty weight exceeding 6,500 pounds;

(19) Laundromats and laundry and dry cleaning pick-up stations;

(20) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a governmental agency or a nonprofit organization; and other uses required for the performance of a governmental function and primarily intended to serve residents of adjoining neighborhoods;

(21) Motor fuels dispensing in conjunction with other uses permitted in this district, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor fuels may be located within required yards adjacent to streets, but not within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands may extend to within ten feet of street lines;

d. A plan of development shall be required as set forth in Article X of this chapter;

(21.1) Nightclubs lawfully existing on the effective date of the ordinance from which this provision is derived, provided that no nightclub use shall be enlarged to occupy a greater floor area than was occupied by the use on the effective date of the ordinance from which this provision is derived, and provided further that if such use is discontinued for a period of two years or longer, it shall no longer be considered a permitted use;

(22) Office supply, business and office service, photocopy and custom printing establishments, provided that not more than five persons are employed on the premises in the conduct of any printing establishment;

(23) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts;

(24) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way;

(25) Parking decks, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but shall be devoted to other permitted principal uses, which shall have a depth of not less than 20 feet along the principal street frontage, or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this subsection (1)a prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade;

b. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way;

c. Except as provided in subsection (25)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

d. A plan of development shall be required as set forth in Article X of this chapter;

(26) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments; provided that not more than five persons are employed on the premises in the conduct of any repair or fabrication activity;

(27) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building;

(28) Postal and package mailing services, but not including package distribution centers;

(29) Private elementary and secondary schools having curricula substantially the same as that offered in public schools;

(30) Professional, business and vocational schools when located above the ground floor of buildings, and provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith;

(31) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(32) Recreation and entertainment uses, including theaters, museums, amusement centers, lodges and clubs, meeting facilities, auditoriums and assembly halls; when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a transitional site;

(33) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(34) Retail stores and shops, provided that not more than 50 percent of the floor area may be devoted to storage of merchandise to be sold at retail on the premises;

(35) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(36) Sales lots for Christmas trees, vegetable stands and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site;

(37) Self-service auto washing facilities, either automatic with a single vehicle capacity or hand operated with not more than four washing stalls, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. Doors, curtains or screens shall be installed as necessary to prevent water spray from blowing onto adjacent properties;

d. Such use shall not be operated between the hours of 11:00 p.m. and 7:00 a.m.;

e. A plan of development shall be required as set forth in Article X of this chapter;

(38) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building, no internal combustion engine shall be repaired or serviced except within a completely enclosed soundproof building, and not more than five persons shall be employed on the premises in the conduct of any service or repair activity;

(39) Service stations, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor fuels may be located within required yards adjacent to streets, but not within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands may extend to within ten feet of street lines;

d. A plan of development shall be required as set forth in Article X of this chapter;

(40) Shopping centers containing uses permitted in this district, provided that a plan of development shall be required as set forth in Article X of this chapter;

(41) Tourist homes;

(42) Wholesale and distribution establishments with not more than 5,000 square feet of floor area devoted to storage of goods, provided that distribution of products shall not involve the use of delivery vehicles having an empty weight exceeding 6,500 pounds;

(43) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(43.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(44) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units. Outdoor accessory uses such as temporary sales and display areas, play equipment, pay phones, vending machines and similar uses shall not be located within 15 feet of any street line or within any required side yard adjacent to an R or RO district or within required parking spaces, except that temporary sales and display areas not involving any structures may be located within required front yards. Not more than two vending machines shall be located outside of a completely enclosed building. Newspaper boxes shall not be subject to the limitations of this subsection.

(Code 1993, § 32-436.1; Code 2004, § 114-436.1; Code 2015, § 30-436.1; Ord. No. 2004-180-167, §§ 2, 4, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2013-237-225, § 1, 12-9-2013; Ord. No. 2019-343, § 1(30-436.1), 6-22-2020)

Sec. 30-436.2. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-2 district by conditional use permit as set forth in Article X of this chapter:

(1) Retail sales of liquor.

(Code 2004, § 114-436.2; Code 2015, § 30-436.2; Ord. No. 2011-29-150, § 3, 9-12-2011)

Sec. 30-436.3. Yards.

Yard regulations in the B-2 Community Business District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 25 feet (see Article VI, Division 4 of this chapter).

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 20 feet in depth.

(Code 1993, § 32-436.3; Code 2004, § 114-436.3; Code 2015, § 30-436.3)

Sec. 30-436.4. Screening.

Screening regulations in the B-2 Community Business District shall be as follows:

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Where a use prohibited on a transitional site is situated across an alley from the side lot line of property in an R district, there shall be an opaque structural fence or wall not less than four feet in height erected along the alley line, but not within 15 feet of any street line.

(3) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-436.4; Code 2004, § 114-436.4; Code 2015, § 30-436.4)

Sec. 30-436.5. Height.

No building or structure in the B-2 Community Business District shall exceed 35 feet in height.

(Code 1993, § 32-436.5; Code 2004, § 114-436.5; Code 2015, § 30-436.5)

DIVISION 21. B-3 GENERAL BUSINESS DISTRICT

Sec. 30-438.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-3 district, provided that no use which includes a drive-up facility shall be located on a transitional site. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section; any use with drive-up facilities; and any newly constructed building with greater than 50,000 square feet of floor area; provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities;

(2) Adult entertainment establishments, adult book stores, adult motion picture theaters and massage parlors; provided that the property devoted to any such use shall not be situated within 1,000 feet of property in an R or RO district, nor within 1,000 feet of any property occupied by a church or other place of worship, public or private elementary, intermediate or high school, public library, lodginghouse, tourist home, day care center, nursing home, hotel, motel or other adult entertainment establishment, adult book store, adult motion picture theater or massage parlor;

(3) Art galleries;

(4) Auto service centers, provided that no such use shall be located on a transitional site, and provided further that the following conditions are met for any such use that includes facilities for dispensing motor fuels:

a. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

b. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor fuels may be located within required yards adjacent to streets, but not within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands may extend to within ten feet of street lines;

c. A plan of development shall be required as set forth in Article X of this chapter;

(5) Auto, truck, motorcycle, boat, trailer, recreational vehicle, manufactured home and construction equipment sales, rental, service, storage and general repair, and body repair and painting, convertible top and seat cover repair and installation; provided that:

a. No such use shall be located on a transitional site;

b. All facilities involving general repair, body repair and painting and convertible top and seat cover repair and installation shall be located within completely enclosed buildings;

c. No dismantled or junked vehicle unfit for operation on the streets shall be parked or stored outside of an enclosed building;

d. All outdoor areas devoted to storage or display shall be provided with landscaped buffers along streets in accordance with the standards applicable to parking areas and parking lots set forth in Section 30-710.13(1) and (2);

e. A plan of development shall be required as set forth in Article X of this chapter;

(6) Banks, savings and loan offices and similar financial services, including accessory automated teller

machines accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any automated teller machine accessible from the exterior of a building;

(7) Building materials and contractors' sales and storage yards and similar uses involving outside storage of materials or products other than scrapped or junked materials, provided that:

a. No such use shall be located on a transitional site;

b. Areas devoted to storage shall be enclosed by opaque fences or walls not less than six feet in height;

(8) Catering businesses;

(9) Churches and other places of worship, which may include the serving of food for charitable or fellowship purposes, and as an accessory use the temporary housing of not more than 30 homeless individuals within churches and other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(10) Communications centers and telephone repeater stations operated by public service corporations;

(11) Contractors' shops, offices and display rooms;

(12) Day nurseries licensed by and subject to the requirements of the State of Virginia Department of Social Services;

(13) Drive-in theaters, provided that:

a. No such use shall be located on a transitional site;

b. Principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan;

c. Theater screens shall be located so as not to face any street or public area;

d. A plan of development shall be required as set forth in Article X of this chapter;

(14) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight, and provided further that no such use shall be located on a transitional site;

(15) Dwelling units contained within the same building as other permitted principal uses, provided that such dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the ground floor area devoted to other permitted principal uses shall be a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building and shall be not less than 20 feet in depth along the entire length of a principal street frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units (see Section 30-800.1 for provisions for nonconforming dwelling uses);

(16) Funeral homes;

(17) Furniture repair and upholstery shops;

(18) Greenhouses and plant nurseries;

(19) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(20) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that a plan of development shall be required as set forth in Article X of this chapter;

(21) Hotels and motels, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. A plan of development shall be required as set forth in Article X of this chapter;

(22) Janitorial and custodial service and supply establishments;

(23) Laboratories and research facilities which are not any more objectional due to smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district, and which do not involve any manufacturing, processing or fabrication other than that incidental to testing or research activities conducted on the premises;

(24) Laundromats and laundry and dry cleaning pick-up stations;

(25) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a nonprofit organization;

(26) Marinas, provided that a plan of development shall be required as set forth in Article X of this chapter; and boathouses, piers and docks;

(27) Motor fuels dispensing in conjunction with other uses permitted in this district, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor fuels may be located within required yards adjacent to streets, but not within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands may extend to within ten feet of street lines;

d. A plan of development shall be required as set forth in Article X of this chapter;

(28) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter;

(29) Office supply, business and office service, photocopy and custom printing establishments;

(30) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts;

(31) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way;

(32) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but shall be devoted to other permitted principal uses, which shall have a depth of not less than 20 feet along the principal street frontage, or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this subdivision prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade;

b. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

c. Except as provided in subsection (32)a of this section, parking spaces contained therein shall be

screened from view from abutting streets by structural material of not less than 45 percent opacity;

d. A plan of development shall be required as set forth in Article X of this chapter;

(33) Personal loan and financial services;

(34) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments;

(35) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building;

(36) Postal and package mailing services;

(37) Printing, publishing and engraving establishments;

(38) Private elementary and secondary schools having curricula substantially the same as that offered in public schools;

(39) Professional, business and vocational schools;

(40) Public utilities installations, equipment buildings and passenger terminals for public transportation, including servicing of motor vehicles used in connection therewith when such servicing is conducted within a completely enclosed building, and provided that no passenger terminal shall be located on a transitional site;

(41) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(42) Recreation and entertainment uses, including theaters, museums, amusement centers, bowling alleys, lodges and clubs, meeting facilities, auditoriums and assembly halls, when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a transitional site;

(43) Recreation uses, outdoor, including golf courses, par three and miniature golf courses, driving ranges, putting greens, temporary carnivals and similar amusement facilities, but not including shooting ranges; provided that:

a. No such use shall be permitted on a transitional site;

b. Such use shall be so located, designed and operated that noise from equipment, machinery or loudspeaker systems is not audible from nearby properties in R or RO districts;

c. A plan of development shall be required as set forth in Article X of this chapter;

(44) Repair businesses conducted within completely enclosed buildings;

(45) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the

Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(46) Retail stores and shops, provided that not more than 70 percent of the floor area may be devoted to storage of merchandise to be sold at retail on the premises;

(47) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices;

(48) Sales lots for Christmas trees, vegetable stands and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site;

(49) Self-service auto washing facilities and automatic auto washing facilities operated by attendants, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. Doors, curtains or screens shall be installed as necessary to prevent water spray from blowing onto adjacent properties;

d. A plan of development shall be required as set forth in Article X of this chapter;

(50) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building;

(51) Service stations, provided that:

a. No such use shall be located on a transitional site;

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

c. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor fuels may be located within required yards adjacent to streets, but not within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands may extend to within ten feet of street lines;

d. A plan of development shall be required as set forth in Article X of this chapter;

(52) Shopping centers containing uses permitted in this district, provided that a plan of development shall be required as set forth in Article X of this chapter;

(53) Tire recapping and vulcanizing shops, provided that no such use shall be located on a transitional site;

(54) Tourist homes;

(55) Travel trailer parks and campgrounds, provided that no such use shall be located on a transitional site, and provided further that a plan of development shall be required as set forth in Article X of this chapter;

(56) Truck and freight transfer terminals, provided that:

a. No such use shall be located on a transitional site;

b. Principal points of vehicular access to the premises shall be located on arterial or collector streets as designated in the City's master plan;

c. All outdoor areas devoted to truck or trailer storage or parking shall be provided with landscaped

buffers along streets in accordance with the standards applicable to parking areas and parking lots set forth in Section 30-710.13(1) and (2);

d. A plan of development shall be required as set forth in Article X of this chapter;

(57) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(58) Wholesale, warehouse and distribution establishments with not more than 20,000 square feet of floor area devoted to storage of goods;

(59) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(59.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(60) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 1993, § 32-438.1; Code 2004, § 114-438.1; Code 2015, § 30-438.1; Ord. No. 2004-180-167, §§ 2, 4, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2013-237-225, § 1, 12-9-2013; Ord. No. 2019-343, § 1(30-438.1), 6-22-2020)

Sec. 30-438.1:1. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-438.1:1, which pertained to principal uses permitted by conditional use permit and derived from Code 1993, § 32-438.1:1.

Sec. 30-438.2. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-3 district by conditional use permit as set forth in Article X of this chapter:

(1) Adult care residences;

(2) Group homes;

(3) Lodginghouses;

(4) Nightclubs;

(5) Shelters;

(6) Social service delivery uses;

(7) Retail sales of liquor.

(Code 2004, § 114-438.2; Code 2015, § 30-438.2; Ord. No. 2004-240-229, § 1, 9-13-2004; Ord. No. 2011-29-150, § 12, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-438.3. Yards.

Yard regulations in the B-3 district shall be as follows:

(1) *Front yard.* No front yard shall be required (see Article VI, Division 4 of this chapter).

(2) *Side yard.* No side yards shall be required, except that where a side lot line abuts a property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 20 feet in depth.

(4) *Yards adjacent to dwelling uses and shelters.* Side and rear yards adjacent to dwelling uses and shelters, other than dwelling units contained within the same building as other permitted principal uses, shall be

not less than 15 feet in depth.

(5) *Spaces between buildings on the same lot.* Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

(Code 1993, § 32-438.3; Code 2004, § 114-438.3; Code 2015, § 30-438.3)

Sec. 30-438.3:1. Floor area and usable open space.

In the B-3 General Business District, the following floor area and usable open space ratios shall be applicable to dwelling uses and shelters, other than dwelling units contained within the same building as other permitted principal uses (see Section 30-1220):

(1) *Floor area ratio.* The floor area ratio shall not exceed 2.0.

(2) *Usable open space ratio.* A usable open space ratio of not less than 0.25 shall be provided.

(Code 1993, § 32-438.3:1; Code 2004, § 114-438.3:1; Code 2015, § 30-438.3:1)

Sec. 30-438.4. Screening.

Screening regulations in the B-3 General Business District shall be as follows:

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Where a use prohibited on a transitional site is situated across an alley from the side lot line of property in an R district, there shall be an opaque structural fence or wall not less than four feet in height erected along the alley line, but not within 15 feet of any street line.

(3) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-438.4; Code 2004, § 114-438.4; Code 2015, § 30-438.4)

Sec. 30-438.5. Height.

No building or structure shall exceed 35 feet in height in the B-3 General Business District, provided that additional height, not to exceed a total height of 60 feet, shall be permitted when all yards exceed the minimum required by not less than one foot for each one foot of building height in excess of 35 feet and provided, further, that no additional height shall be permitted on a transitional site.

(Code 1993, § 32-438.5; Code 2004, § 114-438.5; Code 2015, § 30-438.5)

DIVISION 22. B-4 CENTRAL BUSINESS DISTRICT

Sec. 30-440. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the B-4 Central Business District is to define the urban center of the City of Richmond by promoting dense, transit-oriented development with greater building height than elsewhere in the region. The district regulations are intended to promote redevelopment, placemaking, and development of surface parking lots to create high-quality urban spaces. Such regulations are also intended to improve streetscape character and enhance public safety by encouraging an active pedestrian environment consistent with the mixed-use character of the district and by providing uniform setbacks, first floor commercial uses, and windows in building façades along street frontages.

(Code 2015, § 30-440; Ord. No. 2019-170, § 2, 7-22-2019)

Sec. 30-440.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-4 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted

in the district unless specifically set forth in this section. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section; construction of any new building of greater than 50,000 square feet of floor area; and construction of any new building or addition to any existing building where vehicular circulation, including driveways, parking areas or loading areas, is to be provided on the site; provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities;

(2) Adult entertainment establishments, adult book stores, adult motion picture theaters and massage parlors; provided that the property devoted to any such use shall not be situated within 1,000 feet of property in an R or RO district, nor within 1,000 feet of any property occupied by a church or other place of worship, public or private elementary, intermediate or high school, public library, lodginghouse, tourist home, day care center, nursing home, hotel, motel or other adult entertainment establishment, adult book store, adult motion picture theater or massage parlor;

(3) Art galleries;

(4) Auto rental establishments;

(5) Banks, savings and loan offices and similar financial services, any accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any such use with an automated teller machine accessible from the exterior of a building;

(6) Catering businesses;

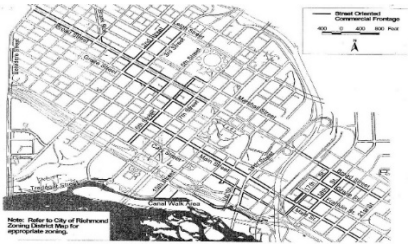
(7) Churches and other places of worship, which may include the serving of food for charitable or fellowship purposes, and as an accessory use the temporary housing of not more than 30 homeless individuals within churches and other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(8) Communications centers and telephone repeater stations operated by public service corporations;

(9) Day nurseries licensed by and subject to the requirements of the State of Virginia Department of Social Services;

(10) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight, and provided further that no such use shall be located on a transitional site;

(11) Dwelling units, provided that when such units are located within buildings fronting on streets designated as street oriented commercial frontage or priority street frontage, as shown on the official zoning map, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage or priority street frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units;



(12) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(13) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that a plan

of development shall be required as set forth in Article X of this chapter;

(14) Hotels, provided that:

a. No such use shall be located on a transitional site;

b. The ground floor of portions of buildings adjacent to principal street frontages shall be devoted to those uses specified in subsection (3), (5), (12), (24), (35), or (36) of this section; provided that not more than 50 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use, except entrances or lobbies existing at the effective date of this subsection that exceed 50 percent of such frontage shall be permitted, but shall not be expanded to occupy a greater percentage of such frontage;

c. A plan of development shall be required as set forth in Article X of this chapter;

(15) Laboratories and research facilities which are not any more objectionable due to smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district, and which do not involve any manufacturing, processing or fabrication other than that incidental to testing or research activities conducted on the premises;

(16) Laundromats and laundry and dry cleaning pick-up stations;

(17) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a nonprofit organization;

(18) Marinas, provided that a plan of development shall be required as set forth in Article X of this chapter for any marina; and boathouses, piers and docks;

(19) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter;

(20) Office supply, business and office service, photocopy and custom printing establishments;

(21) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts;

(22) Parking decks and parking garages, provided that:

a. No portion of the ground floor of such structure located along a principal street frontage or priority street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or priority street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage or priority street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this paragraph prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade. Upper stories of such structure may be used for parking or related circulation of vehicles subject to the fenestration requirements set forth in Section 30-440.7(2);

b. Except as provided in paragraph a of this subsection (22), parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. Any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

d. A plan of development shall be required as set forth in Article X of this chapter;

(23) Personal loan and financial services;

(24) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores,

watch and jewelry repair shops and similar establishments;

(25) Pet shops, veterinary clinics and animal hospitals, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building;

(26) Postal and package mailing services, but not including package distribution centers;

(27) Printing, publishing and engraving establishments employing not more than 20 persons on the premises;

(28) Public elementary or secondary schools, or private elementary and secondary schools having curricula substantially the same as that offered in public schools;

(29) Professional, business and vocational schools, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith;

(30) Public utilities installations, equipment buildings and passenger terminals for public transportation, including servicing of motor vehicles used in connection therewith when such servicing is conducted within a completely enclosed building, provided that no passenger terminal shall be located on a transitional site;

(31) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(32) Recreation and entertainment uses, including theaters, museums, amusement centers, lodges and clubs, meeting facilities, auditoriums and assembly halls, when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a transitional site;

(33) Repair businesses conducted within completely enclosed buildings;

(34) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the planning commission, or their equivalent as determined by the zoning administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(35) Retail stores and shops, provided that not more than 70 percent of the floor area may be devoted to storage of merchandise to be sold at retail on the premises;

(36) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines;

(37) Sales lots for Christmas trees, vegetable stands and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site;

(38) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers,

office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building;

(39) Shopping centers containing uses permitted in this district, provided that a plan of development shall be required as set forth in Article X of this chapter;

(40) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises, including the storage and distribution of such goods in conjunction therewith;

(41) Social service delivery uses, provided that:

a. A plan of development shall be required as set forth in Article X of this chapter;

b. No property devoted to such use shall be situated within 500 feet of property occupied by another social service delivery use or an adult care residence, group home, lodginghouse or shelter;

c. A management program, addressing not less than the following elements shall be submitted as part of the plan of development application. The director of planning and development review may include as conditions, elements of the management program as part of the approval of a plan of development. If a particular element listed below is not applicable to a specific type of use because of the characteristics of that use, the management program shall include a statement of why the element is not applicable:

1. Detailed description of the managing entity, including the organizational structure, names of the board of directors, mission statement, and any bylaws;

2. Detailed description of programs offered on the premises, including operating procedures and characteristics, the intent of the programs and a description of how the programs support a long-term strategy for meeting the clients' needs;

3. Detailed description of off-site programs offered, and/or description of linkages to programs operated by others;

4. Detailed description of the number and type of clients to be served, including an outline of program objectives, eligibility criteria, and requirements for referrals to other programs;

5. Operational details for on-site programs including: hours of operation, number and type of staff, staff qualifications, and typical hours worked by staff; method of client supervision; operating procedures including procedures for orienting a new client to the facility's programs; expectations for clients; prerequisites for continued client enrollment such as a requirement that the client participate in programs; rules of behavior for clients; the location and nature of any security features and arrangements; and names and telephone numbers of persons to contact in emergencies and any emergency procedures;

6. Annual operating budget, including sources of funding;

(42) Tourist homes;

(43) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(44) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(45) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(46) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 1993, § 32-440.1; Code 2004, § 114-440.1; Code 2015, § 30-440.1; Ord. No. 2004-180-167, §§ 2, 4, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2017-019, § 1, 2-27-2017; Ord. No. 2019-170, § 1, 7-22-2019; Ord. No. 2019-343, § 1(30-440.1), 6-22-2020)

Sec. 30-440.2. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-4 district by conditional use permit as set forth in Article X of this chapter:

(1) Adult care residences;

(2) Group homes;

(3) Lodginghouses;

(4) Nightclubs;

(5) Retail sales of liquor;

(6) Shelters.

(Code 2004, § 114-440.2; Code 2015, § 30-440.2; Ord. No. 2004-180-167, § 4, 6-28-2004; Ord. No. 2011-29-150, § 12, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2017-019, § 1, 2-27-2017; Ord. No. 2017-019, § 1, 2-27-2017; Ord. No. 2019-170, § 1, 7-22-2019)

Sec. 30-440.3. Yards.

Yard regulations in the B-4 district shall be as follows (see Article VI, Division 4 of this chapter):

(1) *Front yard.*

a. Where no existing buildings are located on adjacent lots along the same street frontage, no front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, except as may be authorized pursuant to subsection (1)d of this section.

b. Where an existing building is located on one adjacent lot along the same street frontage, the front yard shall be the same as the front yard provided for such existing building, but in no case greater than ten feet. Where the front yard of such existing building is greater than ten feet, the front yard requirement shall be ten feet. A front yard with a depth greater than permitted by this subsection may be authorized pursuant to subsection (1)d of this section.

c. Where existing buildings are located on both adjacent lots along the same street frontage, the front yard shall be the same as the front yard provided for the existing building closest to the street, but in no case greater than ten feet. Where the front yard of the existing building closest to the street is greater than ten feet, the front yard requirement shall be ten feet. A front yard with a depth greater than permitted by this subsection may be authorized pursuant to subsection (1)d of this section.

d. A front yard with a depth greater than permitted by subsections (1)a through c of this section may be provided when such front yard is improved for purposes of a pedestrian plaza, outdoor dining area as permitted by Section 30-440.1 or vehicular drop-off or pick-up area permitted by Section 30-440.4:1, and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

e. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted and shall not be subject to this subsection.

(2) *Side yards.* No side yards shall be required except as provided in subsection (4) of this section, and except that where a side lot line abuts property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required except as provided in subsection (4) of this section, and except

that where a rear lot line abuts or is situated across an alley from property in an R or RO district, there shall be a rear yard of not less than 20 feet in depth.

(4) *Side and rear yards adjacent to shelters.* Side and rear yards adjacent to newly constructed buildings or portions thereof devoted to shelters shall be not less than 15 feet in depth.

(5) *Spaces between buildings on same lot.* Where two or more buildings, at least one of which contains a dwelling use, are erected on the same lot, the distance between any two such buildings shall be not less than 15 feet.

(Code 1993, § 32-440.3; Code 2004, § 114-440.3; Code 2015, § 30-440.3; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-440.4. Screening.

Screening regulations in the B-4 Central Business District shall be as follows:

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Where a use prohibited on a transitional site is situated across an alley from the side lot line of property in an R district, there shall be an opaque structural fence or wall not less than four feet in height erected along the alley line, but not within 15 feet of any street line.

(3) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-440.4; Code 2004, § 114-440.4; Code 2015, § 30-440.4)

Sec. 30-440.4:1. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply along both the principal street frontage and the priority street frontage. This subsection shall not be construed to prohibit vehicular drop-off or pick-up areas serving hotels or hospitals when approved in accordance with Section 30-440.3(1).

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage or priority street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. This subsection shall not be construed to prohibit vehicular drop-off or pick-up areas serving hotels or hospitals when approved in accordance with Section 30-440.3(1).

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-440.4:1; Code 2015, § 30-440.4:1; Ord. No. 2010-177-173, § 1, 10-11-2010; Ord. No. 2019-170, § 1, 7-22-2019)

Sec. 30-440.5. Floor area and usable open space.

In the B-4 Central Business District, the following floor area and usable open space ratios shall be applicable (see Section 30-1220):

(1) *Floor area ratio.* The floor area ratio shall not exceed 6.0, provided that additional floor area for nondwelling uses shall be permitted as set forth in Section 30-690.

(2) *Usable open space ratio.* A usable open space ratio of not less than 0.08 shall be provided for newly constructed buildings or portions thereof devoted to dwelling uses or shelters.

(Code 1993, § 32-440.5; Code 2004, § 114-440.5; Code 2015, § 30-440.5)

Sec. 30-440.6. Height.

For purposes of this section, story height shall not be less than ten feet nor greater than 15 feet, except that the ground floor of a building may be of greater height. Height regulations in the B-4 district shall be as follows:

(1) *Maximum height.* There shall be no maximum height limit in the B-4 Central Business District, provided that no portion of a building shall penetrate an inclined plane originating at the centerline of each abutting street and extending over the lot at an inclination of one foot horizontal for each four feet vertical.

(2) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of three stories, except that porches, porticos, and similar structures attached to a main building may be of lesser height.

(3) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the principal street frontage of the lot.

(Code 1993, § 32-440.6; Code 2004, § 114-440.6; Code 2015, § 30-440.6; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2019-170, § 1, 7-22-2019)

Sec. 30-440.7. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the B-4 district shall be as set forth in this section. In the case of a corner, the requirements shall be applicable along both the principal street frontage of the lot or both the principal street frontage and the priority street frontage where applicable.

(1) *Street level story.*

a. *Non-dwelling uses.* For non-dwelling uses, other than those listed in Section 30-440.1(1), (7), (8), (9), (13), (15), (17), (29), (31), (43), and (44), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection shall not apply.

b. *Dwelling uses.* For dwelling uses, tourist homes, and shelters, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection shall not apply. In all cases, windows shall be double-hung, single-hung, awning, or casement type and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Non-dwelling uses.* For non-dwelling uses, other than those listed in subsection (1)a of this section, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, tourist homes, and shelters, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the

building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning, or casement type and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2004, § 114-440.7; Code 2015, § 30-440.7; Ord. No. 2010-177-173, § 1, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2019-170, § 1, 7-22-2019)

DIVISION 23. B-5 CENTRAL BUSINESS DISTRICT

Sec. 30-442.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-5 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section and for any newly constructed building with greater than 50,000 square feet of floor area, provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult care facilities;

(2) Art galleries;

(3) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible only from the interior of buildings devoted to such uses;

(4) Day nurseries licensed by and subject to the requirements of the Virginia Department of Social Services;

(5) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight, and provided further that no such use shall be located on a transitional site;

(6) Dwelling units, provided that when such units are located within buildings fronting on streets designated as street oriented commercial frontage, as shown on the official zoning map, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units;

(7) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises;

(8) Hotels, provided that:

a. No such use shall be located on a transitional site;

b. The ground floor of portions of buildings adjacent to principal street frontages or any priority street frontage shall be devoted to those uses specified in subsection (2), (3), (7), (14), (20), or (21) of this section, provided that not more than 30 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use;

c. A plan of development shall be required as set forth in Article X of this chapter;

(9) Laundromats and laundry and dry cleaning pick-up stations;

(10) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a governmental agency or a nonprofit organization; and other uses required for the performance of a governmental function and primarily intended to serve residents of adjoining neighborhoods;

(11) Office supply, business and office service, photocopy and custom printing establishments;

(12) Offices, including business, professional and administrative offices, medical and dental offices and

clinics, and studios of writers, designers and artists engaged in the graphic arts;

(13) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage or priority street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or priority street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage or a priority street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this paragraph prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade;

b. Except as provided in paragraph a of this subsection (13), parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. Any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

d. A plan of development shall be required as set forth in Article X of this chapter;

(14) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments;

(15) Pet shops, veterinary clinics, and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building;

(16) Postal and package mailing services, but not including package distribution centers;

(17) Printing, publishing and engraving establishments employing not more than 20 persons on the premises;

(18) Professional, business and vocational schools, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith;

(19) Recreation and entertainment uses, including theaters and museums, when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a transitional site;

(20) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including catering businesses and entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the planning commission, or their equivalent as determined by the zoning administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(21) Retail stores and shops;

(22) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(23) Sales lots for Christmas trees, vegetable stands, and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site;

(24) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building;

(25) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises, including the storage and distribution of such goods in conjunction therewith;

(26) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment, or housing of persons who are currently illegally using or are addicted to a controlled substance as that term is defined in Code of Virginia, § 54.1-3401;

(27) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(27.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(28) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 1993, § 32-442.1; Code 2004, § 114-442.1; Code 2015, § 30-442.1; Ord. No. 2004-180-167, §§ 2, 4, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2017-019, § 1, 2-27-2017; Ord. No. 2018-049, § 1, 3-26-2018; Ord. No. 2019-343, § 1(30-442.1), 6-22-2020; Ord. No. 2020-171, § 1(30-442.1), 9-28-2020)

Sec. 30-442.1:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-5 district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Parking areas and parking lots;

(3) Retail sales of liquor.

(Code 2004, § 114-442.1.1; Code 2015, § 30-442.1:1; Ord. No. 2011-29-150, § 4, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2017-019, § 1, 2-27-2017)

Sec. 30-442.2. Nonconforming uses.

Alterations to buildings or structures devoted to nonconforming uses in the B-5 Central Business District shall be subject to Section 30-800.1.

(Code 1993, § 32-442.2; Code 2004, § 114-442.2; Code 2015, § 30-442.2)

Sec. 30-442.3. Reserved.

Sec. 30-442.4. Yards.

Yard regulations in the B-5 district shall be as follows (see Article VI, Division 4 of this chapter):

(1) *Front yard.*

a. No front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, provided further that not more than ten percent of the building wall of the street level story along the street shall be set back more than ten feet, except as may be authorized pursuant to subsections (1)b and (1)c of this section.

b. A front yard with a depth greater than permitted by subsection (1)a of this section may be provided when such front yard is improved for purposes of a pedestrian plaza or outdoor dining area as permitted by Section 30-440.1 and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

c. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted, and shall not be subject to this subsection.

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts or is situated across an alley from property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 20 feet in depth.

(Code 1993, § 32-442.4; Code 2004, § 114-442.4; Code 2015, § 30-442.4; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2020-171, § 1(30-442.4), 9-28-2020)

Sec. 30-442.5. Screening.

Screening regulations in the B-5 Central Business District shall be as follows:

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-442.5; Code 2004, § 114-442.5; Code 2015, § 30-442.5)

Sec. 30-442.5:1. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply to the principal street frontage of the lot as defined in Section 30-1220 as well as to any priority street frontage.

(b) *Driveways from streets.* No driveway intersecting a street that constitutes the principal street frontage or priority street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this subsection, principal street frontage shall be as defined in Section 30-1220.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-442.5:1; Code 2015, § 30-442.5:1; Ord. No. 2010-177-173, § 2, 10-11-2010; Ord. No. 2018-049, § 1, 3-26-2018)

Sec. 30-442.6. Height.

Height regulations in the B-5 district shall be as follows:

(1) *Maximum height.* No building shall exceed five stories in height. For purposes of this Section 30-442.6, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 15 feet, except that the ground floor of a building may be of greater height.

(2) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(3) *Determination of number of stories.* For purposes of this Section 30-442.6, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 1993, § 32-442.6; Code 2004, § 114-442.6; Code 2015, § 30-442.6; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-442.7. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the B-5 district shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot as well as along any priority street frontage of the lot.

(1) *Street level story.*

a. *Nondwelling uses.* For nondwelling uses, a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection shall not apply.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2004, § 114-442.7; Code 2015, § 30-442.7; Ord. No. 2010-177-173, § 2, 10-11-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2018-049, § 1, 3-26-2018)

DIVISION 24. B-6 MIXED-USE BUSINESS DISTRICT

Sec. 30-444.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the B-6 district is to encourage development of mixed land uses consistent with the objectives of the master plan and the downtown plan, and to promote enhancement of the character of development along principal corridors and in other areas. The district regulations are intended to encourage appropriate infill development on undeveloped land, promote adaptive reuse of underutilized buildings or enable redevelopment of properties where continuation of current uses or adaptive reuse is not feasible, depending on the character and needs of particular areas. The district regulations are also intended to safeguard the character of adjoining properties, to maintain existing streetscape character by providing continuity of building setbacks and heights, to enhance public safety and encourage an active pedestrian environment appropriate to the mixed use character of the district by providing for windows in building façades along street frontages, and to promote an environment that is conducive to preservation of important historic, architectural and cultural features that may exist within the district. Finally, the district regulations are intended to ensure adequate accessible parking and safe vehicular and pedestrian circulation, to facilitate a streetscape with minimum setbacks along principal street frontages and to provide for limited interruption by driveways and vehicular traffic across public sidewalk areas along principal street frontages.

(Code 2004, § 114-444.1; Code 2015, § 30-444.1; Ord. No. 2006-168-189, § 1, 7-10-2006)

Sec. 30-444.2. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-6 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section; construction of any new building of greater than 50,000 square feet of floor area; and construction of any new building or of any addition to an existing building, other than a single-family detached or two-family detached dwelling, when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage and where vehicular circulation, including driveways, parking areas or loading areas, is to be provided on the site; provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities.

(2) Art galleries.

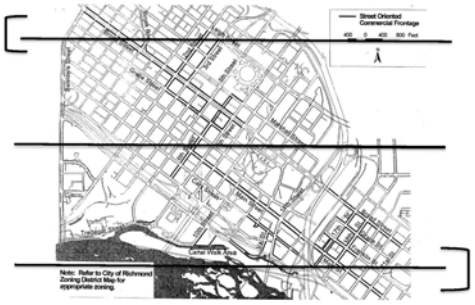
(3) Banks, savings and loan offices and similar financial services, including accessory ATM's accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any ATM accessible from the exterior of a building.

(4) Catering businesses.

(5) Day nurseries licensed by and subject to the requirements of the State Department of Social Services.

(6) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight.

(7) Dwelling units, provided that when such units are located within buildings fronting on streets designated as street oriented commercial frontage, as shown on the official zoning map, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units.



(8) Entertainment, cultural and recreational uses, including theaters, art galleries, museums, bowling alleys, amusement centers, and other commercial recreation facilities located within completely enclosed buildings.

(9) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises.

(10) Hotels, provided that:

a. No such use shall be located on a transitional site.

b. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length.

c. The ground floor of portions of buildings adjacent to principal street frontages shall be devoted to those uses specified in subsection (2), (3), (9), (17), (22), or (24) of this section, provided that not more than 30 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use.

d. A plan of development shall be required as set forth in Article X of this chapter.

(11) Laundromats and dry cleaning pick-up stations.

(12) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a nonprofit organization.

(13) Office supply, business and office service, photocopy and custom printing establishments.

(14) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the arts.

(15) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way, and provided further that a plan of development shall be required as set forth in Article X of this chapter for construction of any parking area for five or more vehicles which is accessory to and located on the same lot as a use for which a plan of development is required.

(16) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this paragraphprohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade.

b. Except as provided in subsection (16)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity.

c. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way.

d. A plan of development shall be required as set forth in Article X of this chapter.

(17) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments.

(18) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building.

(19) Postal and package mailing services, but not including distribution centers.

(20) Professional, business and vocational schools when located above the ground floor of buildings, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith.

(21) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna.

(22) Restaurants, tea rooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district.

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines.

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises.

(23) Retail sales and food or beverage sales conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts or other spaces which are rented or otherwise made available to such vendors.

(24) Retail stores and shops.

(25) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses, unless owned or operated by a government agency.

(26) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture,

personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building and no internal combustion engine shall be repaired or serviced.

(27) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises, including the storage and distribution of such goods in conjunction therewith.

(28) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401.

(29) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, in accordance with the additional requirements of Sections 30-692.1 through 30-692.6, provided that a plan of development shall be required as set forth in Article X of this chapter.

(29.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(30) Accessory uses and structures, including ATMs accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 2004, § 114-444.2; Code 2015, § 30-444.2; Ord. No. 2006-168-189, § 1, 7-10-2006; Ord. No. 2009-36-56, § 1, 4-27-2009; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2019-343, § 1(30-444.2), 6-22-2020; Ord. No. 2020-171, § 1(30-444.2), 9-28-2020)

Sec. 30-444.2:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-6 district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Retail sales of liquor.

(Code 2004, § 114-444.2.1; Code 2015, § 30-444.2:1; Ord. No. 2011-29-150, § 5, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-444.3. Nonconforming uses.

Alterations to buildings or structures devoted to nonconforming uses in the B-6 district shall be subject to the provisions of Section 30-800.1.

(Code 2004, § 114-444.3; Code 2015, § 30-444.3; Ord. No. 2006-168-189, § 1, 7-10-2006)

Sec. 30-444.4. Yards.

Yard regulations in the B-6 district shall be as follows (see Article VI, Division 4 of this chapter):

(1) *Front yard.*

a. No front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, provided further that not more than ten percent of the building wall of the street level story along the street shall be set back more than ten feet, except as may be authorized pursuant to subsections (1)b and (1)c of this section.

b. A front yard with a depth greater than permitted by application of the provisions of subsection (1)a of this section may be provided when such front yard is improved for purposes of a pedestrian plaza or outdoor dining area as permitted by Section 30-444.2 and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

c. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted, and shall not be subject to the provisions of this subsection.

(2) *Side yard.* No side yards shall be required, except that where a side lot line abuts or is situated across an alley from property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 20 feet in depth.

(Code 2004, § 114-444.4; Code 2015, § 30-444.4; Ord. No. 2006-168-189, § 1, 7-10-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2020-171, § 1(30-444.4), 9-28-2020)

Sec. 30-444.5. Screening.

Screening regulations in the B-6 district shall be as follows:

(1) Where a side or rear lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this provision shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 2004, § 114-444.5; Code 2015, § 30-444.5; Ord. No. 2006-168-189, § 1, 7-10-2006)

Sec. 30-444.6. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, the provisions of this subsection shall apply only along the principal street frontage of the lot as defined in Article XII of this chapter.

(b) *Driveways from streets.* No driveway intersecting a street, which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this provision, principal street frontage shall be as defined in Article XII of this chapter.

(c) *Improvement requirements and landscaping standards.* In addition to the provisions of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-444.6; Code 2015, § 30-444.6; Ord. No. 2006-168-189, § 1, 7-10-2006)

Sec. 30-444.7. Height.

Height regulations in the B-6 district shall be as follows:

(1) *Maximum height in general.* No building shall exceed four stories in height, provided that where an existing building on the same lot or on an adjacent lot along the same street frontage is greater than four stories in height, no building shall exceed the number of stories contained in such existing building. For purposes of this Section 30-444.7, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 14 feet, except that the ground floor of a building may be of greater height.

(2) *Maximum height in special cases.*

a. Where greater than 50 percent of the lineal block frontage is comprised of lots occupied by existing buildings of greater than four stories in height, the average number of stories (rounded to the nearest whole number) contained in such existing buildings shall be the maximum permitted number of stories.

b. Where there are no buildings existing on an entire block at the time of development, or where there are existing buildings to be retained and vacant land to be developed on an entire block, and where

the entire block is to be developed under the same ownership or control pursuant to an overall development plan, the maximum permitted height shall be five stories.

(3) *Maximum roofline limited to roofline nearest to street frontage.* In any case where a newly constructed building or addition to an existing building is permitted to exceed four stories in height pursuant to subsection (1) or (2)a of this section, the roofline nearest to the street frontage of the lot shall be the maximum permitted roofline of the building.

(4) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(5) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2004, § 114-444.7; Code 2015, § 30-444.7; Ord. No. 2006-168-189, § 1, 7-10-2006; Ord. No. 2009-36-56, § 1, 4-27-2009; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-444.8. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the B-6 district shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot.

(1) *Street level story.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-444.2(1), (5), (12) and (28), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)a shall not apply.

b. *Dwelling uses.* For dwelling uses, other than single-family and two-family dwellings, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)b shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-444.2(1), (5), (12) and (28), windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, other than single-family and two-family dwellings, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of

30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. The types of permitted windows shall be as specified in subsection (1)b of this section.

(Code 2004, § 114-444.8; Code 2015, § 30-444.8; Ord. No. 2006-168-189, § 1, 7-10-2006; Ord. No. 2009-36-56, § 1, 4-27-2009; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

DIVISION 25. B-7 MIXED-USE BUSINESS DISTRICT

Sec. 30-446.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the B-7 district is to encourage a broad range of mixed land uses, including residential, commercial and compatible industrial and service uses. The district is intended to promote enhancement of the character of mixed-use areas that are undergoing revitalization and adaptive reuse by providing for alternative economic use of existing structures, while enabling continuation of existing industrial and service uses. The district regulations are intended to encourage appropriate infill development on undeveloped land, promote adaptive reuse of vacant or underutilized buildings and enable redevelopment of properties where continuation of current uses or adaptive reuse is not feasible. The district regulations are also intended to safeguard the character of adjoining properties, to maintain the predominant existing streetscape character by providing continuity of building scale and setbacks, to enhance public safety and encourage an active pedestrian environment appropriate to the mixed-use character of the district by providing for windows in building façades along street frontages. Finally, the district regulations are intended to assure adequate accessible parking and safe vehicular and pedestrian circulation, to facilitate a streetscape with minimum setbacks along principal street frontages and to provide for limited interruption by driveways and vehicular traffic across public sidewalk areas along principal street frontages.

(Code 2004, § 114-446.1; Code 2015, § 30-446.1; Ord. No. 2010-19-31, § 1, 2-22-2010)

Sec. 30-446.2. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the B-7 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district, except as specifically authorized by conditional use permit pursuant to Section 30-446.3. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section; construction of any new building of greater than 50,000 square feet of floor area; and construction of any new building or of any addition to an existing building, other than a single-family detached or two-family detached dwelling, when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage and where vehicular circulation, including driveways, parking areas or loading areas, is to be provided on the site; provided that a plan of development shall not be required for any use, new building or addition that is subject to approval of a conditional use permit or subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities.

(2) Art galleries.

(3) Auto service centers, subject to the provisions of Section 30-446.3(6), and provided that:

a. No such use shall be located on a transitional site.

b. A plan of development shall be required as set forth in Article X of this chapter.

(4) Banks, savings and loan offices and similar financial services, including accessory ATM's accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any ATM accessible from the exterior of a building.

(5) Breweries producing not more than 100,000 barrels of beer per year and distilleries producing not more than 250,000 cases of liquor per year, subject to the provisions of Section 30-446.3(6).

(6) Building materials and contractors' sales and storage yards and similar uses involving outside storage of materials or products other than scrapped or junked materials, subject to the provisions of Section 30-446.3(6), and provided that:

a. No such use shall be located on a transitional site.

b. Areas devoted to storage shall be enclosed by opaque fences or walls not less than six feet in height.

c. A plan of development shall be required as set forth in Article X of this chapter.

(7) Catering businesses.

(8) Communications centers and telephone repeater stations operated by public service corporations.

(9) Contractors' shops, offices and display rooms.

(10) Day nurseries licensed by and subject to the requirements of the State Department of Social Services.

(11) Dry cleaning and laundering establishments, provided that the total capacity of all dry cleaning machines shall not exceed 100 pounds dry weight and the total capacity of all laundry machines shall not exceed 150 pounds dry weight.

(12) Dwelling units, other than a single-family detached, a single-family attached or a two-family dwelling, provided that when dwelling units are located within buildings located on lots having street frontage on Hull Street or Commerce Road, or street-oriented commercial frontage, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire Hull Street and Commerce Road street frontages or along street-oriented commercial frontage, except for ingress and egress, provided that dwelling units shall not be located in any building devoted to a use that is prohibited on a transitional site. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units.

(13) Entertainment, cultural and recreational uses, including theaters, museums, bowling alleys, amusement centers, and other commercial recreation facilities located within completely enclosed buildings.

(14) Funeral homes.

(15) Furniture repair and upholstery shops.

(16) Greenhouses and plant nurseries, subject to the provisions of Section 30-446.3(6).

(17) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises.

(18) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that a plan of development shall be required as set forth in Article X of this chapter.

(19) Hotels, provided that:

a. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length.

b. The ground floor of portions of buildings adjacent to principal street frontages or priority street frontages shall be devoted to those uses specified in subsection (2), (4), (17), (30), (37) or (39) of this section, provided that not more than 30 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use.

c. A plan of development shall be required as set forth in Article X of this chapter.

(20) Janitorial and custodial service and supply establishments.

(21) Laboratories and research facilities which are not any more objectionable due to smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district, and which do not involve any manufacturing, processing or fabrication other than that incidental to testing or research activities conducted on the premises, subject to the provisions of Section 30-446.3(6).

(22) Laundromats and dry cleaning pick-up stations.

(23) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned

or operated by a nonprofit organization.

(24) Manufacturing uses of under 15,000 square feet of area, as listed in Section 30-452.1(2)(a), but not allowing paragraph (13), Section 30-452.1(2)(c), Section 30-452.1(2)(d), or Section 30-452.1(2)(e), (34). A plan of development shall be required as set forth in Article X of this chapter.

(24.1) Marinas, provided that a plan of development shall be required as set forth in Article X of this chapter; and boathouses, piers and docks.

(25) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter.

(26) Office supply, business and office service, photocopy and custom printing establishments.

(27) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the arts.

(28) Parking areas and parking lots, subject to the provisions of Section 30-446.3(6), and provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way, and provided further that a plan of development shall be required as set forth in Article X of this chapter for construction of any parking area for five or more vehicles which is accessory to and located on the same lot as a use for which a plan of development is required.

(29) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage or priority street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or priority street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage or priority street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this section prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade.

b. Except as provided in subsection (29)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity.

c. Any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way.

d. A plan of development shall be required as set forth in Article X of this chapter.

(30) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments.

(31) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building.

(32) Postal and package mailing services, but not including distribution centers.

(33) Printing, publishing and engraving establishments.

(34) Professional, business and vocational schools, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith.

(35) Radio and television broadcasting studios and offices, including accessory antennas, provided that the

supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna.

(36) Repair businesses conducted within completely enclosed buildings.

(37) Restaurants, tea rooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district.

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with "Fence and Wall Design Guidelines" adopted by resolution of the City Planning Commission, as amended, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines.

(38) Retail sales and food or beverage sales conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts or other spaces which are rented or otherwise made available to such vendors.

(39) Retail stores and shops.

(40) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses, unless owned or operated by a government agency.

(41) Sales lots for Christmas trees, vegetable stands and other seasonal uses, but not including flea markets, and provided no such use shall be located on a transitional site.

(42) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building.

(43) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises, including the storage and distribution of such goods in conjunction therewith.

(44) Tourist homes.

(45) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401.

(46) Uses permitted in the M-1 and M-2 districts and not otherwise listed as permitted uses in this division, when such uses are lawfully existing on the effective date of the ordinance creating the B-7 district to include the property in the B-7 district, and:

a. Such uses shall not be considered nonconforming uses, shall not be subject to the limitations on nonconforming uses set forth in Article VIII of this chapter and, subject to the provisions of Section 30-446.3(6), may be extended, expanded or enlarged to occupy any portion of the property devoted to the use at the time of its inclusion in the B-7 district.

b. Any such use may be changed to another use that is permitted by right or by conditional use permit in the B-7 district, or to a use that is first permitted in the same district as or a more restricted district than the district in which such use is first permitted, subject to the provisions of Section 30-454.1(2).

c. In the case of a building or portion thereof that is vacant on the effective date of the ordinance to include the property in the B-7 district, the last lawful use, subject to the provisions of Sections 30-800.4 and 30-800.5, to occupy such building or portion thereof shall determine the applicability of this subsection.

(47) Wholesale, warehouse and distribution establishments with not more than 30,000 square feet of floor area devoted to storage of goods, subject to the provisions of Section 30-446.3(6), and provided that a plan of development shall be required as set forth in Article X of this chapter.

(48) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, subject to the provisions of Section 30-446.3(6), and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6, provided that a plan of development shall be required as set forth in Article X of this chapter.

(48.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(49) Accessory uses and structures, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 2004, § 114-446.2; Code 2015, § 30-446.2; Ord. No. 2010-19-31, § 1, 2-22-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2017-150, § 1, 9-25-2017; Ord. No. 2019-343, § 1(30-446.2), 6-22-2020)

Sec. 30-446.3. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the B-7 district by conditional use permit as set forth in Article X of this chapter:

(1) Drive-up facilities in conjunction with principal uses permitted by Section 30-446.2, provided that:

a. No such use shall be located on a transitional site, a priority street frontage, or a street-oriented commercial frontage.

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length.

(2) Motor fuels dispensing in conjunction with principal uses permitted by Section 30-446.2, provided that:

a. No such use shall be located on a transitional site, a priority street frontage, or a street-oriented commercial frontage.

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length.

c. Notwithstanding other provisions of this chapter regarding yards, pump islands for dispensing motor shall not be located within 20 feet of any street or property line. Marquees, cantilevers and similar roofs over pump islands shall not extend within ten feet of any street line.

(3) Nightclubs.

(4) Required off-street parking consisting of less than one parking space per dwelling unit, but not less than one parking space per two dwelling units, serving multifamily dwellings located in buildings existing on the effective date of the ordinance from which this section is derived, when such off-street parking is located on the site of the dwelling units or off the premises.

(5) Self-service auto washing facilities and automatic auto washing facilities operated by attendants, provided that:

a. No such use shall be located on a transitional site.

b. The area of the lot devoted to such use shall be not less than 10,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length.

c. Doors, curtains or screens shall be installed as necessary to prevent water spray from blowing onto adjacent properties.

(6) Social service delivery uses.

(7) Uses listed in Section 30-446.2(3), (5), (6), (16), (21), (28), (47) and (48) and the extension, expansion or enlargement of a use listed in Section 30-446.2(46), when any such use is located on a lot having street frontage on Hull Street or Commerce Road.

(Code 2004, § 114-446.3; Code 2015, § 30-446.3; Ord. No. 2010-19-31, § 1, 2-22-2010; Ord. No. 2011-29-150, § 12, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2017-150, § 1, 9-25-2017)

Sec. 30-446.4. Yards.

Yard regulations in the B-7 district shall be as follows (see Article VI, Division 4 of this chapter):

(1) *Front yard.*

a. No front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, provided further that not more than ten percent of the building wall of the street level story along the street shall be set back more than ten feet, except as may be authorized pursuant to subsections (1)b and (1)c of this section.

b. A front yard with a depth greater than permitted by application of the provisions of subsection (1)a of this section may be provided when such front yard is improved for purposes of a pedestrian plaza or outdoor dining area as permitted by Section 30-446.2 and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

c. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted, and shall not be subject to the provisions of this subsection.

(2) *Side yard.* No side yards shall be required, except that where a side lot line abuts or is situated across an alley from property in an R or RO district there shall be a side yard of not less than ten feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 20 feet in depth.

(Code 2004, § 114-446.4; Code 2015, § 30-446.4; Ord. No. 2010-19-31, § 1, 2-22-2010; Ord. No. 2020-171, § 1(30-446.4), 9-28-2020)

Sec. 30-446.5. Screening.

Screening regulations in the B-7 district shall be as follows:

(1) Where a side or rear lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this provision shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 2004, § 114-446.5; Code 2015, § 30-446.5; Ord. No. 2010-19-31, § 1, 2-22-2010)

Sec. 30-446.6. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, the provisions of this subsection shall apply to the principal street frontage of the lot as defined in Article XII of this chapter as well as

any priority street frontage.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage or priority street frontage of a lot shall be permitted when alley access is available to serve such lot. No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage is available to serve such lot. For purposes of this provision, principal street frontage shall be as defined in Article XII of this chapter.

(c) *Improvement requirements and landscaping standards.* In addition to the provisions of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-446.6; Code 2015, § 30-446.6; Ord. No. 2010-19-31, § 1, 2-22-2010; Ord. No. 2017-150, § 1, 9-25-2017)

Sec. 30-446.7. Height.

Height regulations in the B-7 district shall be as follows:

(1) *Maximum height in general.* No building shall exceed five stories in height. For purposes of this section, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 15 feet, except that the ground floor of a building may be of greater height.

(2) *Maximum height in special cases.* Where there are no buildings existing on an entire block at the time of development, or where there are existing buildings to be retained and vacant land to be developed on an entire block, and where the entire block is to be developed under the same ownership or control pursuant to an overall development plan, the maximum permitted height shall be six stories.

(3) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2004, § 114-446.7; Code 2015, § 30-446.7; Ord. No. 2010-19-31, § 1, 2-22-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-446.8. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the B-7 district shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot as well as along any priority street frontage.

(1) *Street level story.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-446.2(1), (3), (5), (6), (8), (10), (14), (16), (18), (21), (23), (24), (25), (29), (44), (45), (46) and (47), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)a shall not apply.

b. *Dwelling uses.* For dwelling uses, other than single-family and two-family dwellings, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than

five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)b shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in subsection (1)a of this section, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, other than single-family and two-family dwellings, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. The types of permitted windows shall be as specified in subsection (1)b of this section.

(Code 2004, § 114-446.8; Code 2015, § 30-446.8; Ord. No. 2010-19-31, § 1, 2-22-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2017-150, § 1, 9-25-2017)

DIVISION 25.1. RF-1 RIVERFRONT DISTRICT

Sec. 30-447.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the RF-1 Riverfront District is to provide for modest scale planned mixed-use development on relatively large sites adjacent to the riverfront in a manner that will protect prominent views of the James River from public spaces and will encourage public and private use of and access to the riverfront. The district is intended to facilitate the economic development benefits which will accrue through enhanced commercial and residential development and increased tourism generated by riverfront redevelopment. Finally, the district regulations are intended to promote a concentration of uses that result in a high degree of pedestrian attraction and activity along the riverfront, while protecting the area at the shore of the river from building development.

(Code 1993, § 32-447.1; Code 2004, § 114-447.1; Code 2015, § 30-447.1)

Sec. 30-447.2. Permitted principal and accessory uses.

The uses of buildings and premises listed in this section shall be permitted in the RF-1 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district unless specifically set forth in this section. A plan of development shall be required for construction of any new building of greater than 45 feet in height or any addition to an existing building when such addition exceeds 45 feet in height, provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Retail stores and shops;

(1.1) Specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises; provided that the floor area devoted to any such use shall not exceed 5,000 square feet;

(2) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons;

(3) Catering businesses employing not more than five persons on the premises;

(4) Entertainment, cultural and recreational uses, including theaters, art galleries, museums, bowling alleys, amusement centers, and other commercial recreation facilities or activities, whether indoors or outdoors;

(5) Personal service businesses that provide services directly to persons or services for personal items,

including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments;

(6) Marinas, including facilities for dispensing motor fuels, provided that a plan of development shall be required as set forth in Article X of this chapter for any marina; and boathouses, piers and docks;

(7) Day nurseries licensed by and subject to the requirements of the Virginia Department of Social Services;

(8) Adult day care facilities;

(9) Dry cleaning and laundering establishments employing not more than five persons on the premises;

(10) Offices, including business, professional and administrative offices, medical and dental offices and clinics and studios of writers, designers, artists and others engaged in the arts;

(11) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(12) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible only from the interior of buildings devoted to such uses;

(13) Shops for the repair of household items, locks, bicycles and similar items, provided that not more than five persons are employed on the premises, and provided further than no gasoline engines shall be repaired or serviced;

(14) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises, including the storage and distribution of such goods in conjunction therewith;

(15) Office supply, business and office service, photocopy and custom printing establishments, provided that not more than ten persons are employed on the premises in the conduct of any printing establishment;

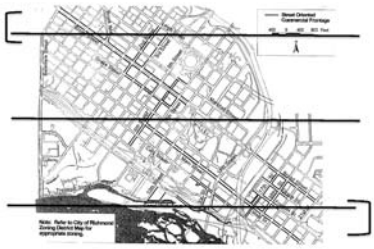
(16) Hotels, provided that:

a. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

b. The ground floor of portions of buildings adjacent to principal street frontages shall be devoted to those uses specified in subsection (1), (1.1), (2), (4), (5) or (12) of this section, provided that not more than 30 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use;

c. A plan of development shall be required as set forth in Article X of this chapter;

(17) Dwelling units, provided that when such units are located within buildings fronting on streets designated as street oriented commercial frontage as shown on the official zoning map, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units;



(18) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(19) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way;

(20) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this paragraph prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade;

b. Except as provided in subsection (20)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

d. A plan of development shall be required as set forth in Article X of this chapter;

(21) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices; but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses, unless owned or operated by a governmental agency;

(22) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(23) Shopping centers containing uses permitted in this district, provided that a plan of development shall be required as set forth in Article X of this chapter;

(24) Retail sales and food or beverage sales conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts or other spaces which are rented or otherwise made available to such vendors;

(24.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(25) Accessory buildings and uses customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 1993, § 32-447.2; Code 2004, § 114-447.2; Code 2015, § 30-447.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2008-36-57, § 3, 3-24-2008; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2019-343, § 1(30-447.2), 6-22-2020; Ord. No. 2020-171, § 1(30-447.2), 9-28-2020)

Sec. 30-447.2:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the RF-1 district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Retail sales of liquor.

(Code 2004, § 114-447.2.1; Code 2015, § 30-447.2:1; Ord. No. 2011-29-150, § 6, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-447.3. Yards and setbacks.

Yard regulations in the RF-1 Riverfront District shall be as follows:

(1) *Front yard.* No front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, except that:

a. A front yard with a depth greater than ten feet shall be permitted when such front yard is improved for purposes of an outdoor dining area as permitted by Section 30-447.2(2), and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

b. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway and no greater than 50 feet in width shall be permitted, and shall not be subject to the provisions of this subsection.

c. The prohibition of a front yard with a depth greater than ten feet shall not be applicable within a designated floodplain.

(2) *Side and rear yards.* No side or rear yard shall be required, except where a side or rear lot line abuts a property, other than the James River or other public open space, that is not included within the development site, a side or rear yard of not less than 25 feet shall be provided (see Section 30-630.9 for permitted projections and encroachments in required yards).

(3) *Riverfront setback.* No building or structure shall be located within 50 feet of the mean low-water level along the shore of the James River, provided that the following shall be exempt from this requirement when permitted by the regulations of the Chesapeake Bay Preservation Areas contained in Chapter 14, Article IV:

a. Water-dependent facilities as defined in Section 14-181.

b. Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.

(Code 1993, § 32-447.3; Code 2004, § 114-447.3; Code 2015, § 30-447.3; Ord. No. 2008-36-57, § 3, 3-24-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-447.4. Land area coverage.

In the RF-1 Riverfront District, portions of buildings over three stories in height shall occupy not more than 25 percent of land area and shall be situated on the lot in such manner as to maximize to the extent practical, as determined through the plan of development review process, views of the James River from public parks as identified in the master plan. For purposes of this Section 30-447.4, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 1993, § 32-447.4; Code 2004, § 114-447.4; Code 2015, § 30-447.4; Ord. No. 2010-20-49, § 1, 3-8-2010)

Sec. 30-447.5. Building dimensions and space between buildings.

In the RF-1 Riverfront District, no building or combination of multiple buildings, whether such buildings are

on the same lot or on multiple lots within the same development site, shall exceed a total dimension of 300 feet along a lot line, street, public space or riverfront without an intervening uncovered open space at ground level of not less than 50 feet in width along such lot line, street, public space or riverfront, or without an intervening street of not less than 50 feet in width and having no building space above the surface of the street, provided that uncovered open space may contain gazebos and similar structures intended to accommodate or provide amenities for pedestrians. The purpose of this section is to provide for river view corridors between buildings.

(Code 1993, § 32-447.5; Code 2004, § 114-447.5; Ord. No. 2010-20-49, § 1, 3-8-2010)

Sec. 30-447.6. Usable open space ratio.

In the RF-1 Riverfront District, a usable open space ratio of not less than 0.15 shall be provided for newly constructed buildings or portions thereof devoted to dwelling uses.

(Code 1993, § 32-447.6; Code 2004, § 114-447.6; Code 2015, § 30-447.6)

Sec. 30-447.7. Screening.

Screening regulations in the RF-1 Riverfront District shall be as follows:

(1) Where a side lot line abuts property in any R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-447.7; Code 2004, § 114-447.7; Code 2015, § 30-447.7)

Sec. 30-447.7:1. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles in the RF-1 Riverfront District shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply only along the principal street frontage of the lot as defined in Section 30-1220.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this subsection, principal street frontage shall be as defined in Section 30-1220.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-447.7:1; Code 2015, § 30-447.7:1; Ord. No. 2008-36-57, § 1, 3-24-2008)

Sec. 30-447.8. Height.

Height regulations in the RF-1 Riverfront District shall be as follows:

(1) *Maximum height.* No building shall exceed six stories in height. For purposes of this Section 30-447.8, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 15 feet, except that the ground floor of a building may be of greater height.

(2) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(3) *Determination of number of stories.* For purposes of this Section 30-447.8, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 1993, § 32-447.8; Code 2004, § 114-447.8; Code 2015, § 30-447.8; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

Sec. 30-447.9. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the RF-1 Riverfront District shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot.

(1) *Street level story.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-447.2(7), (8) and (18), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy these requirements shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)a shall not apply.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)b shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-447.2(7), (8) and (18), windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2004, § 114-447.9; Code 2015, § 30-447.9; Ord. No. 2008-36-57, § 1, 3-24-2008; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

DIVISION 25.2. RF-2 RIVERFRONT DISTRICT

Sec. 30-447.10. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the RF-2 Riverfront District is to provide for medium scale planned mixed-use development on relatively large sites in close proximity to the riverfront in a manner that will protect prominent views of the James River from public spaces and will encourage public and private use of and access to the riverfront. The district is intended to facilitate the economic development benefits that will accrue through enhanced commercial and residential development and increased tourism generated by riverfront redevelopment. Finally, the district regulations are intended to promote a concentration of uses that result

in a high degree of pedestrian attraction and activity along the riverfront, while protecting the area at the shore of the river from building development.

(Code 1993, § 32-447.10; Code 2004, § 114-447.10; Code 2015, § 30-447.10)

Sec. 30-447.11. Permitted principal and accessory uses.

The uses of buildings and premises listed in this section shall be permitted in the RF-2 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district unless specifically set forth in this section. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section and for construction of any new building of greater than 45 feet in height or any addition to an existing building when such addition exceeds 45 feet in height, provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Retail stores and shops;

(1.1) Specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises; provided that the floor area devoted to any such use shall not exceed 5,000 square feet;

(2) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons;

(3) Catering businesses employing not more than five persons on the premises;

(4) Entertainment, cultural and recreational uses, including theaters, art galleries, museums, bowling alleys, amusement centers, and other commercial recreation facilities or activities, whether indoors or outdoors;

(5) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments;

(6) Marinas, including facilities for dispensing motor fuels, provided that a plan of development shall be required as set forth in Article X of this chapter for any marina; and boathouses, piers and docks;

(7) Day nurseries licensed by and subject to the requirements of the Virginia Department of Social Services;

(8) Adult day care facilities;

(9) Dry cleaning and laundering establishments employing not more than five persons on the premises;

(10) Offices, including business, professional and administrative offices, medical and dental offices and clinics and studios of writers, designers, artists and others engaged in the arts;

(11) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 15 feet above ground level, or in the case of a building-mounted antenna, 15 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(12) Banks, savings and loan offices and similar financial services, including drive-up facilities in conjunction therewith and accessory automated teller machines accessible from the interior or exterior of buildings devoted to such uses, provided that a plan of development shall be required as set forth in Article X of this chapter for any such use with drive-up facilities or an automated teller machine accessible from the exterior of a building;

(13) Shops for the repair of household items, locks, bicycles and similar items, provided that not more than five persons are employed on the premises, and provided further than no gasoline engines shall be repaired or serviced;

(14) Showrooms and display areas for goods which are sold at both wholesale and retail on the premises,

including the storage and distribution of such goods in conjunction therewith;

(15) Office supply, business and office service, photocopy and custom printing establishments, provided that not more than ten persons are employed on the premises in the conduct of any printing establishment;

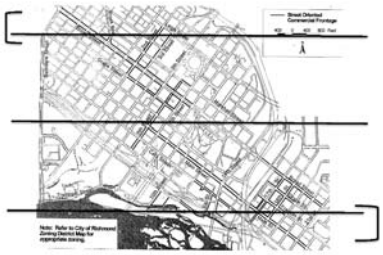
(16) Hotels, provided that:

a. The area of the lot devoted to such use shall be not less than 25,000 square feet, and no property line coincidental with a street line shall be less than 100 feet in length;

b. The ground floor of portions of buildings adjacent to principal street frontages shall be devoted to those uses specified in subsection (1), (1.1), (2), (4), (5) or (12) of this section, provided that not more than 30 percent of the frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use;

c. A plan of development shall be required as set forth in Article X of this chapter;

(17) Dwelling units, provided that when such units are located within buildings fronting on streets designated as street oriented commercial frontage as shown below, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet long the entire street oriented commercial frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units;



(18) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(19) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way;

(20) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or to means of pedestrian or vehicle access, provided that vehicle access along such street frontage shall be permitted only when no other street or alley is available for adequate access. In the case of a portion of a story located along a principal street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this subsection prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade;

b. Except as provided in subsection (20)a of this section, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control

device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

d. A plan of development shall be required as set forth in Article X of this chapter;

(21) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices; but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses, unless owned or operated by a governmental agency;

(22) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(23) Shopping centers containing uses permitted in this district, provided that a plan of development shall be required as set forth in Article X of this chapter;

(24) Retail sales and food or beverage sales conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts or other spaces which are rented or otherwise made available to such vendors;

(25) Business and professional schools;

(25.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(26) Accessory buildings and uses customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior or exterior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 1993, § 32-447.11; Code 2004, § 114-447.11; Code 2015, § 30-447.11; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2008-36-57, § 3, 3-24-2008; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2019-343, § 1(30-447.11), 6-22-2020)

Sec. 30-447.11:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the RF-2 district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Retail sales of liquor.

(Code 2004, § 114-447.11.1; Code 2015, § 30-447.11:1; Ord. No. 2011-29-150, § 7, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-447.12. Yards and setbacks.

Yard regulations in the RF-2 Riverfront District shall be as follows:

(1) *Front yard.* No front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, except that:

a. A front yard with a depth greater than ten feet shall be permitted when such front yard is improved for purposes of an outdoor dining area as permitted by Section 30-447.11(2), and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an old and historic district, the City Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

b. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway and no greater than 50 feet in width shall be permitted, and shall not be subject to the

provisions of this subsection.

c. The prohibition of a front yard with a depth greater than ten feet shall not be applicable within a designated floodplain.

(2) *Side and rear yards.* No side or rear yard shall be required, except where a side or rear lot line abuts a property, other than the James River or other public open space that is not included within the development site:

a. A side or rear yard of not less than 25 feet shall be provided (see Section 30-630.9 for permitted projections and encroachments in required yards).

b. No building shall penetrate an inclined plane originating at such lot line and extending over the lot at an inclination of one foot horizontal for each three feet vertical.

(3) *Riverfront setback.* No building or structure shall be located within 50 feet of the mean low-water level along the shore of the James River, provided that the following shall be exempt from this requirement when permitted by the regulations of the Chesapeake Bay Preservation Areas contained in Chapter 14, Article IV:

a. Water-dependent facilities as defined in Section 14-181.

b. Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.

(Code 1993, § 32-447.12; Code 2004, § 114-447.12; Code 2015, § 30-447.12; Ord. No. 2008-36-57, § 3, 3-24-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-447.13. Land area coverage.

In the RF-2 Riverfront District, portions of buildings over four stories in height shall occupy not more than 35 percent of land area and shall be situated on the lot in such manner as to maximize to the extent practical, as determined through the plan of development review process, views of the James River from public parks as identified in the master plan. For purposes of this Section 30-447.13, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 1993, § 32-447.13; Code 2004, § 114-447.13; Code 2015, § 30-447.13; Ord. No. 2010-20-49, § 1, 3-8-2010)

Sec. 30-447.14. Building dimensions and space between buildings.

(a) *Ground level.* In the RF-2 Riverfront District, no building or combination of multiple buildings, whether such buildings are on the same lot or on multiple lots within the same development site, shall exceed a total dimension of 300 feet along a lot line, street, public space or riverfront without an intervening uncovered open space at ground level of not less than 50 feet in width along such lot line, street, public space or riverfront, or without an intervening street of not less than 50 feet in width and having no building space above the surface of the street, provided that uncovered open space may contain gazebos and similar structures intended to accommodate or provide amenities for pedestrians. The purpose of this subsection is to provide for river view corridors between buildings.

(b) *Over four stories in height.* Portions of a building over four stories in height or combinations of portions of multiple buildings over four stories in height, whether such buildings are on the same lot or on multiple lots within the same development site, shall not exceed a total dimension of 300 feet along a lot line, street, public space or riverfront without an intervening uncovered open space of not less than 100 feet in width along such lot line, street, public space or riverfront. For purposes of this subsection, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot. The purpose of this subsection is to provide for river view corridors between portions of buildings over four stories in height.

(Code 1993, § 32-447.14; Code 2004, § 114-447.14; Code 2015, § 30-447.14; Ord. No. 2010-20-49, § 1, 3-8-2010)

Sec. 30-447.15. Usable open space ratio.

In the RF-2 Riverfront District, a usable open space ratio of not less than 0.10 shall be provided for newly constructed buildings or portions thereof devoted to dwelling uses.

(Code 1993, § 32-447.15; Code 2004, § 114-447.15; Code 2015, § 30-447.15)

Sec. 30-447.16. Screening.

Screening regulations in the RF-2 Riverfront District shall be as follows:

(1) Where a side lot line abuts property in any R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-447.16; Code 2004, § 114-447.16; Code 2015, § 30-447.16)

Sec. 30-447.17. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles in the RF-2 Riverfront District shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply only along the principal street frontage of the lot as defined in Section 30-1220.

(b) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this subsection, principal street frontage shall be as defined in Section 30-1220.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2004, § 114-447.17; Code 2015, § 30-447.17; Ord. No. 2011-205-2012-1, §§ 2, 3, 1-9-2012)

Editor's note—Ord. No. 2011-205-2012-1, § 2, adopted January 9, 2012, repealed Code 2004, § 114-447.17, which pertained to height and derived from the 1993 Code; and Ord. No. 2010-20-49, adopted March 8, 2010. Section 3 of said ordinance enacted new provisions to read as herein set out.

Sec. 30-447.18. Height.

Height regulations in the RF-2 Riverfront District shall be as follows:

(1) *Maximum height.* No building shall exceed 13 stories in height. For purposes of this Section 30-447.18, story height as defined in Article XII of this chapter shall be not less than ten feet and not greater than 15 feet, except that the ground floor of a building may be of greater height.

(2) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(3) *Determination of number of stories.* For purposes of this Section 30-447.18, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2004, § 114-447.18; Code 2015, § 30-447.18; Ord. No. 2011-205-2012-1, §§ 2, 3, 1-9-2012)

Editor's note—Ord. No. 2011-205-2012-1, § 2, adopted January 9, 2012, repealed Code 2004, § 114-447.18 which pertained to requirements for areas devoted to parking or circulation of vehicles and derived from Ord. No. 2008-36-57, adopted March 24, 2008. Section 3 of said ordinance enacted new provisions to read as herein set out.

Sec. 30-447.19. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the RF-2 Riverfront District shall be as set forth in this section. In the case of a corner lot, the requirements shall be applicable along the principal street frontage of the lot.

(1) *Street level story.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-447.11(7), (8) and (18), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)a shall not apply.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subsection (1)b shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-447.11(7), (8) and (18), windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2004, § 114-447.19; Code 2015, § 30-447.19; Ord. No. 2008-36-57, § 2, 3-24-2008; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2011-205-2012-1, § 1, 1-9-2012)

DIVISION 26. CM COLISEUM MALL DISTRICT

Sec. 30-448.1. Permitted principal and accessory uses.

The following uses of building and premises shall be permitted in the CM district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district:

(1) Retail stores and shops;

(1.1) Specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises; provided that the floor area devoted to any such use shall not exceed 5,000 square feet;

(2) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service

establishments, including catering businesses and entertainment in conjunction therewith, and including areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons;

(3) Entertainment, cultural and recreational uses, including theatres, art galleries, museums, bowling alleys, amusement centers and other commercial recreation facilities located within completely enclosed buildings;

(4) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments; provided that not more than five persons are employed on the premises in the conduct of any repair or fabrication activity;

(4.1) Dry cleaning and laundering establishments employing not more than five persons on the premises;

(5) Shops for the repair of household items, locks, bicycles and similar items, provided that not more than five persons are employed on the premises, and provided further than no gasoline engines shall be repaired or serviced;

(6) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible only from the interior of buildings devoted to such uses;

(7) Hotels and motels, provided that a plan of development shall be required as set forth in Article X of this chapter;

(8) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way;

(9) Parking decks and parking garages, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(10) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers, artists and others engaged in the arts;

(11) Public assembly buildings, auditoriums, convention facilities, meeting rooms and exhibition spaces;

(12) Public schools and private business, professional and vocational schools not involving the use of heavy machinery, welding equipment or internal combustion engines;

(13) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(14) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6;

(14.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(15) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this

district, including automated teller machines accessible from the interior of buildings devoted to permitted principal uses.

(Code 1993, § 32-448.1; Code 2004, § 114-448.1; Code 2015, § 30-448.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2019-343, § 1(30-448.1), 6-22-2020)

Sec. 30-448.2. Use limitations.

To ensure continuity of retail, personal service and entertainment uses appropriate to a pedestrian mall and to encourage the concentration of active establishments with a high degree of pedestrian attraction necessary to the economic vitality of such areas, only those uses specified in Sections 30-448.1(1) through (6) and (11) and 30-448.3(1) and (2) shall be located within the ground floor of a building having frontage along a public mall within the CM Coliseum Mall District, provided that not more than 30 percent of any building frontage along such mall may be devoted to entrances or lobbies related to other uses generally permitted in this district and located above or below the ground floor or to the rear of the building.

(Code 1993, § 32-448.2; Code 2004, § 114-448.2; Code 2015, § 30-448.2; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-448.3. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the CM district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Retail sales of liquor.

(Code 2004, § 114-448.3; Code 2015, § 30-448.3; Ord. No. 2011-29-150, § 8, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-448.4. Height.

No building or structure in the CM Coliseum Mall District shall exceed 80 feet in height.

(Code 1993, § 32-448.4; Code 2004, § 114-448.4; Code 2015, § 30-448.4)

DIVISION 26.1. DCC DOWNTOWN CIVIC AND CULTURAL DISTRICT

Sec. 30-449.1. Intent of district.

The DCC Downtown Civic and Cultural District is intended to be applied to sites containing or adjacent to a major public space or building intended for public assembly. The district is intended to permit the public assembly use itself, while also fostering the occupancy of adjacent sites by entertainment, cultural, and/or tourism-oriented uses that have a mutually supportive relationship with the public assembly use. The range of permitted uses is intended to generally result in a concentration of establishments with a high degree of pedestrian attraction, and the development standards are intended to result in a relatively uninterrupted collection of such uses along or around a major public space within the district.

(Code 1993, § 32-449.1; Code 2004, § 114-449.1; Code 2015, § 30-449.1)

Sec. 30-449.2. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the DCC district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district unless specifically set forth in this section:

(1) Retail stores and shops;

(1.1) Specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises; provided that the floor area devoted to any such use shall not exceed 5,000 square feet;

(2) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including catering businesses and entertainment in conjunction therewith, and including areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons;

(3) Entertainment, cultural and recreational uses, including theaters, art galleries, museums, bowling alleys, amusement centers, and other commercial recreation facilities, whether indoors or outdoors;

(4) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments; provided that not more than five persons are employed on the premises in the conduct of any repair or fabrication activity;

(4.1) Dry cleaning and laundering establishments employing not more than five persons on the premises;

(5) Shops for the repair of household items, locks, bicycles and similar items, provided that not more than five persons are employed on the premises, and provided further than no gasoline engines shall be repaired or serviced;

(6) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible only from the interior of buildings devoted to such uses;

(7) Hotel and motels, provided that a plan of development shall be required as set forth in Article X of this chapter;

(8) Parking areas, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(9) Parking decks and parking garages, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(10) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers, artists and others engaged in the arts;

(11) Public assembly buildings, auditoriums, convention facilities, meeting rooms, exhibition spaces, stadiums and arenas;

(12) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices; but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses, unless owned or operated by a governmental agency;

(13) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(14) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses.

(Code 1993, § 32-449.2; Code 2004, § 114-449.2; Code 2015, § 30-449.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006)

Sec. 30-449.3. Use limitations.

To ensure continuity of retail, personal service and entertainment uses appropriate to the area along a public

mall or plaza and to encourage the concentration of active establishments with a high degree of pedestrian attraction necessary to the economic vitality of such areas, only those uses specified in Sections 30-449.2(1) through (6) and (11) and 30-449.4(1) and (2) shall be located within the ground floor of a building having frontage along a public mall or plaza within the DCC Downtown Civic and Cultural District, provided that not more than 30 percent of any building frontage along such mall or plaza may be devoted to entrances or lobbies related to other uses generally permitted in this district and located above or below the ground floor or to the rear of the building.

(Code 1993, § 32-449.3; Code 2004, § 114-449.3; Code 2015, § 30-449.3; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-449.4. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the DCC district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Retail sales of liquor.

(Code 2004, § 114-449.4; Code 2015, § 30-449.4; Ord. No. 2011-29-150, § 9, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-449.5. Height.

No building or structure in the DCC Downtown Civic and Cultural District shall exceed 95 feet in height.

(Code 1993, § 32-449.5; Code 2004, § 114-449.5; Code 2015, § 30-449.5)

DIVISION 27. OS OFFICE-SERVICE DISTRICT

Sec. 30-450.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the OS district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district:

(1) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers, artists and others engaged in the arts;

(2) Professional, business and vocational schools, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith;

(3) Catering businesses employing not more than 20 persons on the premises;

(4) Churches and other places of worship, which may include the serving of food for charitable or fellowship purposes, and as an accessory use the temporary housing of not more than 30 homeless individuals within churches and other places of worship, subject to meeting applicable building code and fire code requirements, for up to a total of seven days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year;

(5) Communications centers and telephone repeater stations operated by public service corporations;

(6) Contractors' shops, offices and display rooms;

(7) Furniture repair and upholstery shops;

(8) Janitorial and custodial service and supply establishments;

(9) Libraries, museums, schools, parks and recreational facilities owned or operated by any governmental agency, and similar uses required for the performance of a governmental function and intended to serve residents of adjoining neighborhoods;

(10) Lodges and similar meeting places;

(11) Parking areas serving uses permitted in this district, provided that any card reader or other access control device at an entrance to a parking area shall be provided with not less than one stacking space situated off the public right-of-way;

(12) Parking decks serving uses permitted in this district, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(13) Printing, publishing and engraving establishments employing not more than 20 persons on the premises;

(14) Radio and television broadcasting studios and offices, including accessory antennas, provided that the supporting hardware for any such antenna does not exceed 18 feet above ground level, or in the case of a building-mounted antenna, 18 feet above the surface of the building on which it is mounted, and that a plan of development as set forth in Article X of this chapter shall be required for any ground-mounted antenna;

(15) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses;

(16) Wholesale, warehouse and distribution establishments in conjunction with office, showroom, display and other facilities generally accessible to the public, provided that:

a. Not more than 20,000 square feet of floor area shall be devoted to warehouse and storage use;

b. Portions of buildings adjacent to public street frontages along which front yards are required shall be devoted to office, showroom, display and other facilities generally accessible to the public;

(17) Incidental retail sales, repair, fabrication and processing activities shall be permitted within the same building as, and in conjunction with office, studio, wholesale, warehouse, distribution, supply and contractors' establishments permitted in this district when such retail sales, repair, fabrication and processing activities are clearly accessory and subordinate to the principal activity conducted on the premises;

(17.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter;

(18) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses.

(Code 1993, § 32-450.1; Code 2004, § 114-450.1; Code 2015, § 30-450.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2019-343, § 1(30-450.1), 6-22-2020)

Sec. 30-450.1:1. Nonconforming dwelling uses.

Alterations to buildings or structures devoted to nonconforming dwelling uses in the OS Office-Service District shall be subject to Section 30-800.1.

(Code 1993, § 32-450.1:1; Code 2004, § 114-450.1:1; Code 2015, § 30-450.1:1)

Sec. 30-450.2. Outside storage.

There shall be no outside storage of equipment, materials or supplies either as a principal use of property or as an accessory use in connection with a principal use permitted in the OS Office-Service District.

(Code 1993, § 32-450.2; Code 2004, § 114-450.2; Code 2015, § 30-450.2)

Sec. 30-450.3. Reserved.

Sec. 30-450.4. Yards.

Yard regulations in the OS Office-Service District shall be as follows:

(1) *Front yard.* There shall be a front yard with a depth of not less than 15 feet, which yard shall be improved and maintained with appropriate vegetative ground cover (see Article VI, Division 4 of this chapter).

(2) *Side yards.* There shall be side yards of not less than ten feet in width, provided that no side yard shall be required where buildings on abutting lots are attached by means of a party wall constructed along a mutual side lot line.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 25 feet in depth.

(Code 1993, § 32-450.4; Code 2004, § 114-450.4; Code 2015, § 30-450.4)

Sec. 30-450.5. Screening, location and improvement of parking and loading areas.

In addition to requirements pertaining to the location and improvement of parking and loading areas set forth in Article VII of this chapter, the following requirements shall be applicable in the OS Office-Service District.

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Whenever a parking area for five or more vehicles or a loading area abuts or is situated within 50 feet of property devoted to dwelling, office, medical or dental clinic use existing at the time such parking or loading area is constructed, the parking or loading area shall be effectively screened from view from such premises by an evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height, provided that such parking or loading area need not be screened from an adjacent loading area or parking area containing five or more spaces. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(3) Loading areas shall not be situated within that portion of a lot between the main building and a public street along which a front yard is required and shall be located or screened so as not to be directly visible from such public street.

(Code 1993, § 32-450.5; Code 2004, § 114-450.5; Code 2015, § 30-450.5)

Sec. 30-450.6. Height.

No building or structure in the OS Office-Service District shall exceed 35 feet in height.

(Code 1993, § 32-450.6; Code 2004, § 114-450.6; Code 2015, § 30-450.6)

DIVISION 27.1. RP RESEARCH PARK DISTRICT

Sec. 30-451.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of the RP Research Park District is to encourage development of a technology research park as envisioned in the downtown plan. The district regulations are intended to promote an environment that is conducive to continued development of the research park and to accommodate the unique needs of research, development and laboratory facilities related to the medical, biotechnology and other life sciences industries. Such facilities, along with offices, are the primary intended uses in the district, with secondary uses such as retail and personal services intended for the convenience of workers and visitors in the area. These convenience uses are encouraged to be located on the ground floor of buildings devoted to permitted principal uses and with active pedestrian orientation to the main street frontages in the district. Public entrances and storefront character along the streets are encouraged in order to enhance pedestrian presence in the district. The district is designed to enable flexibility of development, maximum utilization of scarce land resources and innovative and efficient means of providing needed off-street parking facilities, while affording protection from potentially incompatible development. Through the district regulations and the plan of development review process, the district

is intended to encourage high-quality development that promotes continued economic investment; that provides amenities that contribute to an attractive and comfortable pedestrian environment; and that complements and does not detract from the adjacent downtown retail, office and medical areas.

(Code 1993, § 32-451.1; Code 2004, § 114-451.1; Code 2015, § 30-451.1)

Sec. 30-451.2. Permitted principal and accessory uses.

The uses of buildings and premises listed in this section shall be permitted in the RP district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district. A plan of development as set forth in Article X of this chapter shall be required for such uses as specified in this section and for construction of any new building or any addition to an existing building when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage, provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Research, development and laboratory facilities related to the medical, biotechnology and other life sciences industries;

(2) Offices, including business, professional and administrative offices, and medical and dental offices and clinics;

(3) Day nurseries licensed by and subject to the requirements of the State of Virginia Department of Social Services;

(4) Public open spaces and uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(5) Parking areas and parking lots, provided that any card reader or other access control device at an entrance to a parking area or parking lot shall be provided with not less than one stacking space situated off the public right-of-way, and provided further that a plan of development shall be required as set forth in Article X of this chapter for construction of any parking area for five or more vehicles which is accessory to and located on the same lot as a use for which a plan of development is required;

(5.1) Parking decks and parking garages, provided that:

a. Not less than one exit lane and one entrance lane shall be provided for each 300 parking spaces or major fraction thereof contained within the structure, and any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way;

b. Parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity;

c. A plan of development shall be required as set forth in Article X of this chapter;

(6) Retail stores and shops, personal service businesses, travel agencies, banks and savings and loan offices, automated teller machines accessible only from the interior of buildings and restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, provided that:

a. Such uses are limited to the ground floor of buildings devoted to other permitted principal uses;

b. Such uses shall have public entrances from the street, and building frontages devoted to such uses shall include display windows and/or storefront treatment;

c. Not more than 20 percent of the total floor area of the building shall be devoted to such uses, except that this limitation shall not apply to parking garage structures;

d. Food and beverage service establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

1. Such areas shall be oriented to and be provided with public access from the street;
2. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district;
3. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the Planning Commission, or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines;
4. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises;

(7) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight or passenger depots, loading platforms, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses; and

(8) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, and including assembly, processing, prototype production activities and indoor storage of materials, when such are located within the same building.

(Code 1993, § 32-451.2; Code 2004, § 114-451.2; Code 2015, § 30-451.2; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-43-63, § 1, 3-13-2006)

Secs. 30-451.3, 30-451.4. Reserved.

Editor's note—Ord. No. 2004-180-167, § 2, adopted June 28, 2004, repealed Code 2004, § 114-451.3, which pertained to plan of development requirements and derived from Code 1993, § 32-451.3.

Sec. 30-451.5. Yard requirements.

Except as provided in Section 30-451.7, there shall be no minimum required front yard, side yard or rear yard in the RP Research Park District (see Article VI, Division 4 of this chapter for supplemental yard regulations).

(Code 1993, § 32-451.5; Code 2004, § 114-451.5; Code 2015, § 30-451.5)

Sec. 30-451.6. Screening requirements.

(a) In the RP Research Park District, where a side or rear lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation or opaque structural fence or wall not less than four feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(b) Screening of refuse areas shall be provided as set forth in Section 30-660.

(Code 1993, § 32-451.6; Code 2004, § 114-451.6; Code 2015, § 30-451.6)

Sec. 30-451.7. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Improvement requirements and landscaping standards.* Parking areas and parking lots in the RP Research Park District shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter, except that the requirements of Section 30-710.12(1) shall not apply.

(b) *Paving of loading areas.* All loading areas, including entrances thereto and exits therefrom, shall be designed and improved using accepted engineering practices for usability and longevity with asphalt, concrete, unit pavers or similar materials approved by the administrator of the erosion and sediment control ordinance found in

Chapter 14, Article III.

(Code 1993, § 32-451.7; Code 2004, § 114-451.7; Code 2015, § 30-451.7)

Sec. 30-451.8. Height limit.

In the RP Research Park District, no building or structure shall exceed 120 feet in height, provided that no portion of any building or structure located within 300 feet of any residential, RO-1, RO-2 or B-2 district shall exceed a height of 60 feet (see Article VI, Division 6 of this chapter for height exceptions).

(Code 1993, § 32-451.8; Code 2004, § 114-451.8; Code 2015, § 30-451.8; Ord. No. 2012-66-43, § 1, 4-23-2012)

DIVISION 28. M-1 LIGHT INDUSTRIAL DISTRICT

Sec. 30-452.1. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the M-1 district:

(1) Any use permitted in the district as set forth in Section 30-438.1, provided that:

a. A plan of development shall not be required for any use except the following: parking decks, parking garages, shopping centers, hotels and motels, motor fuels dispensing in conjunction with other uses permitted in the B-3 district and uses with drive-up facilities;

b. The prohibition of uses outside of enclosed buildings shall not be applicable in this district;

c. No building shall be erected for dwelling use or converted to such use unless permitted by the Board of Zoning Appeals pursuant to the provisions of Section 17.20 of the Charter, in which event such use shall be discontinued within ten years from the date such use is permitted, provided that a building may be used for dwelling purposes by a guard, caretaker or watchman employed in connection with the use of a building or premises permitted in this district.

(2) The following uses and any similar uses which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influence than the minimum amount normally resulting from other uses permitted; such permitted uses being generally light industries that manufacture, process, store and distribute goods and materials and are in general dependent upon raw materials refined elsewhere, and manufacturing, compounding, processing, packaging or treatment as specified of the following or similar products:

a. *Food and beverages.*

1. Baked goods.
2. Beverages: blending and bottling plants.
3. Chocolate, cocoa and cocoa products: processing and packaging.
4. Coffee, tea and spices: processing and packaging.
5. Condensed milk: processing and canning.
6. Dairy products: creameries and plants.
7. Fruit and vegetable processing, including canning, preserving, drying and freezing.
8. Gelatin products.
9. Glucose and dextrine.
10. Macaroni and noodle manufacturing.
11. Meat products: packing and processing, but not including slaughtering.
12. Oleomargarine: compounding and packaging.
13. Poultry packaging and slaughtering.

b. *Metal and metal products.*

1. Agricultural or farm implements.

2. Aircraft and aircraft parts.
3. Aluminum extrusion, rolling, fabrication and forming.
4. Automobile, truck, trailer, motorcycle and bicycle assembly.
5. Bolts, nuts, screws, washers and rivets.
6. Containers (metal).
7. Culverts.
8. Firearms.
9. Foundries and foundry products manufacturing.
10. Heating, ventilating, refrigeration and appliance supplies and equipment.
11. Iron or structural steel fabrication.
12. Nails, brads, tacks, spikes and staples.
13. Needles and pins.
14. Plating (electrolytic process).
15. Plumbing supplies.
16. Safes and vaults.
17. Sheet metal products.
18. Silverware and plated ware.
19. Tool, die, gauge and machine shops.
20. Tools and hardware products.
21. Vitreous enameled products.

c. *Textiles, bedding and fibers.*

1. Garment making, repair and tailoring.
2. Hats.
3. Hosiery mill.
4. Knitting, weaving, printing, dyeing and finishing of textiles and fibers into fabric goods.
5. Rubber and synthetic treated fabrics, but not including rubber and synthetic processing.
6. Yarn, threads and cordage.

d. *Wood and paper products.*

1. Baskets and hampers.
2. Boxes and crates.
3. Forests and wildlife preserves: public and private.
4. Furniture.
5. Pencils.
6. Pulp goods and paper processing, but not including pulp milling.
7. Shipping containers.
8. Trailers and wagons.

e. *Unclassified uses.*

1. Animal, poultry and bird raising.

2. Animal pound for detention only.
3. Boat manufacturing (vessels less than five tons).
4. Building materials storage and sales.
5. Bus and other transportation terminals, garages and repair shops.
6. Button manufacturing.
7. Carbon paper and inked ribbon manufacturing.
8. Chewing gum manufacturing.
9. Clay, stone and glass products.
10. Cigar, cigarette, chewing and smoking tobacco manufacturing.
11. Circus and fairgrounds.
12. Coal and coke storage and sales.
13. Concrete products.
14. Contractors' shops and storage yards.
15. Drive-in or outdoor theatres.
16. Dry cleaning and laundering.
17. Exhibition space: enclosed or unenclosed.
18. Electric transformer stations, substations and generating plants.
19. Entertainment and recreational uses.
20. Feed and grain storage.
21. Flour and feed packaging and blending.
22. Fur finishing.
23. Grain blending and packing, but not including milling.
24. Greenhouses.
25. Ice manufacturing.
26. Industrial and vocational training schools.
27. Insecticides, fungicides, disinfectants and related industrial and household chemical compounds (blending only).
28. Kennels.
29. Laboratories and research facilities.
30. Leather goods manufacturing, but not including tanning operations.
31. Livery stables and riding academies.
32. Malt products manufacturing, but not including breweries producing more than 100,000 barrels of beer per year or distilleries producing more than 250,000 cases of liquor per year.
33. Motion picture production.
34. Pottery and porcelain products.
35. Propagation and cultivation of crops, flowers, trees and shrubs.
36. Public utility storage yard.
37. Railroad passenger and freight depots.
38. Repair and servicing of diesel engines.

39. Repair, servicing, sale and storage of heavy construction equipment.
40. Sanitary landfills operated by governmental agencies.
41. Storage of petroleum products for distribution within the metropolitan area.
42. Support structures used in connection with wireless communications facilities, radio and television broadcast antennas and microwave relay facilities, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 32-692.1 through 32-692.6.
43. Wholesale, warehouse and distribution establishments.

(Code 1993, § 32-452.1; Code 2004, § 114-452.1; Code 2015, § 30-452.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2013-33-37, § 1, 3-25-2013)

Sec. 30-452.1:1. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the M-1 district by conditional use permit as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Retail sales of liquor.

(Code 2004, § 114-452.1.1; Code 2015, § 30-452.1:1; Ord. No. 2011-29-150, § 10, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-452.2. Yards.

Yard regulations in the M-1 Light Industrial District shall be as follows:

(1) *Front yard.* No front yard shall be required (see Article VI, Division 4 of this chapter).

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts or is situated across an alley from property in an R or RO district there shall be a side yard of not less than 25 feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district there shall be a rear yard of not less than 25 feet in depth.

(Code 1993, § 32-452.2; Code 2004, § 114-452.2; Code 2015, § 30-452.2)

Sec. 30-452.3. Screening.

Screening regulations in the M-1 Light Industrial District shall be as follows:

(1) Where a side lot line abuts a property in an R district, there shall be a continuous evergreen vegetative screen or opaque structural fence or wall not less than six feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be of the specified height at the time of installation and shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 1993, § 32-452.3; Code 2004, § 114-452.3; Code 2015, § 30-452.3)

Sec. 30-452.4. Height.

In the M-1 Light Industrial District, no building or structure shall exceed 45 feet in height, provided that additional height shall be permitted, except for sign structures, when all portions of a building or structure over 45 feet in height are set back from side and rear lot lines a minimum of one foot for each two feet in height in excess of 45 feet and provided, further, that no portion of a building or structure shall penetrate an inclined plane originating at the centerline of an abutting street and extending over the lot at an inclination of one foot horizontal for each three feet vertical.

(Code 1993, § 32-452.4; Code 2004, § 114-452.4; Code 2015, § 30-452.4)

DIVISION 29. M-2 HEAVY INDUSTRIAL DISTRICT

Sec. 30-454.1. Permitted principal and accessory uses.

The following uses of buildings and structures shall be permitted in the M-2 district:

(1) Any use permitted in the M-1 district as set forth in Section 30-452.1.

(2) Any use or structure not permitted in any other district, including accessory buildings; provided that no building or premises shall be used for any of the following purposes unless specifically authorized or permitted by the City Council; provided that for purposes of this subsection (2), a use listed in any other district as permitted by conditional use permit or permitted only when lawfully existing on the effective date of a particular provision shall not be construed to be a permitted use:

a. Curing, smoking, packing or storing of fish.

b. Incinerating, reducing, dumping or storing, including transfer facilities, of offal, dead animals, garbage or refuse for compensation and not as a governmental function.

c. Manufacturing or refining of ammonia, bleaching powder, chlorine, celluloid, pyroxylin and explosive or flammable products made therefrom; dyestuffs, explosives and pyrotechnics, gypsum, lime, cement, plaster of Paris, matches, turpentine, paint, varnish and fertilizer from organic materials or bone distillation.

d. Manufacturing or storage of sulphurous, sulphuric, nitric, picric, hydrochloric or other corrosive acid, exclusive of the use or storage thereof in connection with other permitted uses of buildings or premises.

e. Medical waste management facilities as regulated by and for which a permit is required by the State of Virginia Department of Environmental Quality, excluding however, any facility subject to an on-site permit by rule.

f. Flea markets.

g. Nightclubs.

h. Outdoor shooting ranges.

i. Private penal institutions.

j. Public and private alternative incarceration domiciliary facilities and institutions.

k. Refining of tallow, grease or lard.

l. Refining of petroleum products.

m. Rendering of fat.

n. Retail sales of liquor.

o. Sales, storage or disposal of used tires in bulk.

p. Storage of dyestuffs, explosives and pyrotechnics.

q. Storage of petroleum products in bulk for distribution in areas beyond the metropolitan area.

(Code 1993, § 32-454.1; Code 2004, § 114-454.1; Code 2015, § 30-454.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2011-29-150, § 12, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-454.2. Report from Chief Administrative Officer.

In the M-2 Heavy Industrial District, the City Council shall not authorize or permit any building or premises to be used for any purpose specified in Section 30-454.1(2) until after the Chief Administrative Officer has reported in writing to the Council the effect that such use will have upon the safety, health, comfort, convenience and welfare of the inhabitants of the City and of persons in the locality in which such building is or premises are to be situated.

(Code 1993, § 32-454.2; Code 2004, § 114-454.2; Code 2015, § 30-454.2; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 30-454.3. Uses constituting nuisances.

No building or premises shall be used for any purpose permitted in the M-2 Heavy Industrial District in such a manner as to constitute a nuisance by the creation of unreasonably loud and disturbing sound or noise; unreasonable vibrations; unreasonable danger from explosion or fire; or the unreasonable emission of smoke, odor, dust, heat or glare.

(Code 1993, § 32-454.3; Code 2004, § 114-454.3; Code 2015, § 30-454.3)

Sec. 30-454.4. Yards.

Yard regulations in the M-2 Heavy Industrial District shall be as follows:

(1) *Front yard.* No front yard shall be required (see Article VI, Division 4 of this chapter).

(2) *Side yards.* No side yards shall be required, except that where a side yard line abuts or is situated across an alley from property in an R or RO district there shall be a side yard of not less than 50 feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R or RO district, there shall be a rear yard of not less than 50 feet in depth.

(Code 1993, § 32-454.4; Code 2004, § 114-454.4; Code 2015, § 30-454.4)

Sec. 30-454.5. Screening.

Screening regulations in the M-2 Heavy Industrial District shall be as follows:

(1) Where a side lot line abuts property in an R district, there shall be a continuous evergreen vegetative screen or opaque structural fence or wall not less than six feet in height erected along such lot line, but not within 15 feet of any street line. Evergreen vegetative material intended to satisfy this subsection shall be of the specified height at the time of installation and shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) Screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(3) Automobile junkyards and similar uses involving outside storage of scrapped or junked materials shall be screened from view from public streets, public spaces and adjacent properties in an R or RO district by opaque structural fences or walls not less than six feet in height.

(Code 1993, § 32-454.5; Code 2004, § 114-454.5; Code 2015, § 30-454.5)

Sec. 30-454.6. Height.

In the M-2 Heavy Industrial District, no building or structure shall exceed 45 feet in height, provided that additional height shall be permitted, except for sign structures, when all portions of a building or structure over 45 feet in height are set back from side and rear lot lines a minimum of one foot for each two feet of height in excess of 45 feet and provided, further, that no portion of a building or structure shall penetrate an inclined plane originating at the centerline of an abutting street and extending over the lot at an inclination of one foot horizontal for each three feet vertical.

(Code 1993, § 32-454.6; Code 2004, § 114-454.6; Code 2015, § 30-454.6)

DIVISION 30. COMMUNITY UNIT PLANS

Sec. 30-456.1. Applicability of division.

The regulations contained in this division shall be applicable to community unit plans and are established pursuant to and in accordance with Section 17.10(g) of the Charter.

(Code 1993, § 32-456.1; Code 2004, § 114-456.1; Code 2015, § 30-456.1)

Sec. 30-456.2. Land eligible.

The owner of any tract of land situated in any district and which comprises not less than ten contiguous acres in area, except for intervening public streets and alleys, may submit to the Planning Commission a plan for the use and development of such land in a manner that does not conform in all respects with the regulations and restrictions prescribed for the district in which such tract is situated.

(Code 1993, § 32-456.2; Code 2004, § 114-456.2; Code 2015, § 30-456.2)

Sec. 30-456.3. Content of preliminary plan.

A preliminary community unit plan containing the following information shall be submitted to the Planning Commission:

(1) Maximum number of dwelling units and maximum amount of commercial and residential floor area proposed.

(2) General character and location of all buildings, structures and open spaces.

(3) General location of all means of ingress and egress and areas for the parking and circulation of vehicles.

(4) Specific features of the plan which are intended to ensure compatibility with adjacent development.

(5) Statement as to the manner in which such plan meets the criteria set forth in Section 30-456.4.

(Code 1993, § 32-456.3; Code 2004, § 114-456.3; Code 2015, § 30-456.3)

Sec. 30-456.4. Approval or disapproval of preliminary plan; criteria.

The Planning Commission shall approve the preliminary community unit plan when it finds, after receiving a report from the Director of Planning and Development Review and after holding a public hearing thereon, that the use of the land and the design, construction, maintenance and operation of the structures, facilities and appurtenances proposed thereon will adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property; will not unreasonably impair an adequate supply of light and air to adjacent property; will not unreasonably increase congestion in streets; will not unreasonably increase public danger from fire or otherwise unreasonably affect public safety; and will not diminish or impair the established values of property in surrounding areas; otherwise, the Commission shall disapprove the plan.

(Code 1993, § 32-456.4; Code 2004, § 114-456.4; Code 2015, § 30-456.4; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-456.5. Action of Planning Commission.

The Planning Commission shall hold a public hearing on the preliminary community unit plan. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City. The action of the Planning Commission shall be based upon a finding of fact which shall be reduced to writing and preserved among its records. The Commission shall act by formal resolution, which shall set forth the reasons for its decision. When the Planning Commission approves a preliminary community unit plan, it shall transmit a copy of its resolution, together with its finding of fact, to the City Council.

(Code 1993, § 32-456.5; Code 2004, § 114-456.5; Code 2015, § 30-456.5)

Sec. 30-456.6. Action of City Council.

The City Council shall hold a public hearing on the preliminary community unit plan. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City. The City Council may, by ordinance, approve the plan if it concurs in the finding of fact of the Commission.

(Code 1993, § 32-456.6; Code 2004, § 114-456.6; Code 2015, § 30-456.6; Ord. No. 2019-085, § 2, 4-22-2019)

Sec. 30-456.7. Approval or disapproval of final plan; criteria.

After approval of a preliminary community unit plan by the City Council and within a period of time specified in the ordinance adopting such plan, a final plan indicating in detail the proposed layout of the site and character of improvements thereon shall be submitted to the Planning Commission. After receiving a report from the Director of Planning and Development Review, the Commission shall, by formal resolution, approve the final plan if it finds that the requirements of Section 30-456.4 are met and that such plan is consistent with objectives of the preliminary plan as adopted by the Council and not in conflict with any conditions specified by the Council. The Commission

shall not approve the final plan if revisions thereto subsequent to Council approval have resulted in an increase in the number of dwelling units or amount of residential or commercial floor area or in any greater deviation from the zoning district regulations than proposed in the preliminary plan.

(Code 1993, § 32-456.7; Code 2004, § 114-456.7; Code 2015, § 30-456.7; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-456.8. Permits for construction and occupancy.

A copy of the resolution approving a final community unit plan shall be transmitted to the Zoning Administrator, who shall thereby be authorized to review for sufficiency the necessary permits for construction and occupancy. Application for building permits shall be made within a period of time specified in the resolution; otherwise, the action of the Planning Commission shall be considered null and void.

(Code 1993, § 32-456.8; Code 2004, § 114-456.8; Code 2015, § 30-456.8)

Sec. 30-456.9. Preliminary plan may be considered final plan.

When a preliminary community unit plan indicates in detail the proposed layout of the site and character of improvements thereon and meets all other requirements of this division and when no modifications are made to such plan subsequent to its approval by the City Council, the plan shall be deemed to be the final plan. In such case, the City Council may authorize the issuance of necessary construction and occupancy permits within a specified period of time, and further approval by the Planning Commission shall not be required.

(Code 1993, § 32-456.9; Code 2004, § 114-456.9; Code 2015, § 30-456.9)

Sec. 30-456.10. Submission fees.

(a) A fee of $3,000.00 plus $100.00 per acre over ten acres shall accompany the preliminary community unit plan application, which amount shall be paid into the City treasury.

(b) A fee of $1,500.00 plus $100.00 per acre over ten acres shall accompany each final community unit plan application, which amount shall be paid into the City treasury.

(c) A fee of $1,500.00 shall accompany each application for an extension to a community unit plan, which amount shall be paid into the City treasury.

(d) A fee of $1,500.00 plus $100.00 per acre amended over ten acres shall accompany each application for an amendment to a community unit plan, which amount shall be paid into the City treasury.

(e) A letter of acceptance for a preliminary community unit plan, final community plan, extension of a community unit plan or amendment of a community plan shall not be accepted until satisfactory evidence has been presented to the Secretary of the Planning Commission that any delinquent real estate taxes applicable to the subject property have been paid. If an application for an amendment to a community unit plan is made, this subsection shall apply only to the properties which are included in the amendment application.

(Code 1993, § 32-456.10; Code 2004, § 114-456.10; Code 2015, § 30-456.10; Ord. No. 2007-54-121, § 1, 5-29-2007; Ord. No. 2010-237-2011-16, § 1, 1-24-2011)

Sec. 30-456.11. Posting of notice on property.

In the case of each application for a community unit plan or amendment to a community unit plan, it shall be the responsibility of the Department of Planning and Development Review to post on the property that is the subject of the community unit plan, a sign or signs notifying interested parties of the application and pending public hearings thereon. Such sign(s) (i) shall be posted at least 15 days prior to the scheduled Planning Commission public hearing on the application, (ii) shall remain on the property until final disposition of the application by the City Council, and (iii) shall comply with any applicable standards established by the Department of Planning and Development Review and approved by resolution of the Planning Commission.

(Code 2004, § 114-456.11; Code 2015, § 30-456.11; Ord. No. 2006-259-262, § 1, 10-23-2006; Ord. No. 2015-148-158, § 1, 7-27-2015)

DIVISION 31. TOD-1 TRANSIT-ORIENTED NODAL DISTRICT

Sec. 30-457.1. Intent of district.

(a) Pursuant to the general purposes of this chapter, the intent of the TOD-1 district is to encourage dense, walkable transit-oriented development consistent with the objectives of the master plan and to promote enhancement of the character of this development along principal corridors, at key gateways, and at nodes of high activity located near transit service, bicycle infrastructure, and pedestrian-friendly streetscapes. The district regulations are also intended to safeguard the character of adjoining properties by only being applied in areas that meet the criteria above, with buffering by setbacks and screening or transitional districts to lower intensity residential areas.

(b) The district regulations are intended to encourage redevelopment and place-making, including adaptive reuse of underutilized buildings, to create a high-quality urban realm. They are intended to improve streetscape character by providing continuity of building setbacks, to enhance public safety by encouraging an active pedestrian environment consistent with the mixed-use character of the district by providing for windows in building façades along street frontages, and to promote an environment that is safe for walking and biking.

(Code 2015, § 30-457.1; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.2. Permitted principal and accessory uses.

The following uses of buildings and premises shall be permitted in the TOD-1 district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district. A plan of development shall be required as set forth in Article X of this chapter for such uses as specified in this section and for any newly constructed building with greater than 30,000 square feet of floor area, and construction of any new building or addition to any existing building where vehicular circulation, including driveways, parking areas or loading areas, is to be provided on the site; provided that a plan of development shall not be required for any use that is subject to location, character and extent approval by the City Planning Commission in accordance with Section 17.07 of the City Charter.

(1) Adult day care facilities licensed by and subject to the requirements of the State Department of Social Services.

(2) Art galleries.

(3) Banks, savings and loan offices and similar financial services, including accessory automated teller machines accessible only from the interior of buildings devoted to such uses.

(4) Breweries producing not more than 10,000 barrels of beer per year and distilleries producing not more than 25,000 cases of liquor per year, subject to the provisions of Section 30-446.3(6).

(5) Catering businesses.

(6) Day nurseries licensed by and subject to the requirements of the State Department of Social Services.

(7) Dwelling units, provided that when such units are located within buildings fronting on streets designated as street-oriented commercial frontage, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage, except for ingress and egress. A plan of development shall be required as set forth in Article X of this chapter for construction of any new building containing more than ten dwelling units.

(8) Grocery stores, convenience stores and specialty food and beverage stores, including bakeries where products are sold principally at retail on the premises.

(9) Hospitals, but not psychiatric hospitals for the care of patients committed by a court, provided that a plan of development shall be required as set forth in Article X of this chapter.

(10) Hotels, provided that:

a. No such use shall be located on a transitional site.

b. The ground floor of portions of buildings adjacent to principal or priority street frontages shall be devoted to those uses specified in subsections (2), (3), (4), (8), (11), (12), (15), (16), (18), (20), (21), (23), (24), (25), (26), and (28) of this section, provided that not more than 30 percent of the

frontage of such ground floor may be devoted to entrances or lobbies serving the hotel use.

c. A plan of development shall be required as set forth in Article X of this chapter.

(11) Laundromats and laundry and dry cleaning pick-up stations.

(12) Libraries, museums, schools, parks and noncommercial recreational facilities, when such uses are owned or operated by a governmental agency or a nonprofit organization, and other uses required for the performance of a governmental function.

(13) Laboratories and research facilities which are not any more objectionable due to smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district, and which do not involve any manufacturing, processing or fabrication other than that incidental to testing or research activities conducted on the premises, subject to the provisions of Section 30-446.3(6).

(14) Manufacturing, warehouse, and distribution uses of food and beverages as listed in Section 30-452.1(2)(a) of under 8,000 square feet of area, but not allowing paragraph (13), and requiring consumption on premises with a minimum of 1,000 square feet of another principal use. A plan of development shall be required as set forth in Article X of this chapter.

(15) Nursing homes, provided that a plan of development shall be required as set forth in Article X of this chapter.

(16) Office supply, business and office service, photocopy and custom printing establishments.

(17) Offices, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts.

(18) Parking decks and parking garages, provided that:

a. No portion of such structure located along a principal street frontage or a priority street frontage shall be used for parking or related circulation of vehicles, but such portion shall be devoted to other permitted principal uses which shall have a depth of not less than 20 feet along the principal street frontage or priority street frontage or to means of pedestrian or vehicle access, provided that vehicle access along any principal street frontage or priority street frontage shall be permitted only when no alley or other street frontage is available for adequate access. In the case of a portion of a story located along a street frontage and having less than five feet of its height above the grade level at the building façade along the street frontage, the provisions of this paragraph prohibiting parking or related circulation of vehicles shall not apply, provided that parking spaces shall be completely screened from view from the street by structural material similar to the material of the building façade.

b. Except as provided in subdivision a of this subsection, parking spaces contained therein shall be screened from view from abutting streets by structural material of not less than 45 percent opacity.

c. Any card reader or other access control device at an entrance to a parking deck or parking garage shall be provided with not less than one stacking space situated off the public right-of-way.

d. A plan of development shall be required as set forth in Article X of this chapter.

(19) Personal service businesses that provide services directly to persons or services for personal items, including barber shops, beauty salons, health spas, fitness centers, dance studios, photography studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments.

(20) Pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith, provided that all facilities shall be located within completely enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible outside the building.

(21) Postal and package mailing services, but not including package distribution centers.

(22) Printing, publishing and engraving establishments employing not more than 20 persons on the premises.

(23) Professional, business and vocational schools, provided that no heavy machinery, welding equipment or internal combustion engine shall be used in conjunction therewith.

(24) Recreation and entertainment uses, including theaters and museums, when such uses are located within completely enclosed buildings, and provided that no such use shall be located on a transitional site.

(25) Restaurants, tearooms, cafes, delicatessens, ice cream parlors and similar food and beverage service establishments, including catering businesses and entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons, provided that the following conditions shall be met:

a. No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district.

b. Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Fences or walls to be credited toward this requirement shall comply with fence and wall design guidelines adopted by resolution of the planning commission, or their equivalent as determined by the zoning administrator. In no case shall chain link, chain link with slats or similar fencing be considered as meeting the requirements of the fence and wall design guidelines.

c. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the premises.

(26) Retail sales and food or beverage sales conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts or other spaces which are rented or otherwise made available to such vendors.

(27) Retail stores and shops.

(28) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and public transportation, including streets, rail lines, power lines, cables, poles, pipes, meters, transformers and similar devices, but not including railroad yards, freight depots, generating plants, transformer stations, electric substations, wastewater treatment plants, water treatment plants, utility storage yards and similar uses.

(29) Service businesses that service, repair or rent audio or video equipment, home appliances, furniture, personal recreational equipment, home yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items; provided that no products shall be serviced, repaired, stored or displayed outside a completely enclosed building.

(30) Uses owned or operated by a governmental agency, but not including facilities intended for incarceration or alternative sentencing or facilities primarily for the care, treatment or housing of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401.

(31) Wireless communications facilities, microwave relay facilities, and radio broadcast antennas, on alternative support structures, provided that a plan of development shall be required in accordance with the requirements of Article X of this chapter and in accordance with the additional requirements of Sections 30-692.1 through 30-692.6.

(31.1) Short-term rental, subject to the requirements of Article VI, Division 14 of this chapter.

(32) Accessory uses and structures customarily incidental and clearly subordinate to uses permitted in this district, including automated teller machines accessible only from the interior of buildings devoted to permitted principal uses other than individual dwelling units or lodging units.

(Code 2015, § 30-457.2; Ord. No. 2017-150, § 2, 9-25-2017; Ord. No. 2019-343, § 1(30-457.2), 6-22-2020)

Sec. 30-457.3. Principal uses permitted by conditional use permit.

The following uses of buildings and premises may be permitted in the TOD-1 district by conditional use permit

as set forth in Article X of this chapter:

(1) Nightclubs;

(2) Social service delivery uses, provided that:

a. A plan of development shall be required as set forth in Article X of this chapter.

b. No property devoted to such use shall be situated within 500 feet of property occupied by another social service delivery use or an adult care residence, group home, lodginghouse or shelter.

c. A management program, addressing not less than the following elements shall be submitted as part of the plan of development application. The Director of Planning and Development Review may include as conditions, elements of the management program as part of the approval of a plan of development. If a particular element listed below is not applicable to a specific type of use because of the characteristics of that use, the management program shall include a statement of why the element is not applicable:

1. Detailed description of the managing entity, including the organizational structure, names of the board of directors, mission statement, and any bylaws.

2. Detailed description of programs offered on the premises, including operating procedures and characteristics, the intent of the programs and a description of how the programs support a long-term strategy for meeting the clients' needs.

3. Detailed description of off-site programs offered or description of linkages to programs operated by others, or both.

4. Detailed description of the number and type of clients to be served, including an outline of program objectives, eligibility criteria, and requirements for referrals to other programs.

5. Operational details for on-site programs including: hours of operation, number and type of staff, staff qualifications, and typical hours worked by staff; method of client supervision; operating procedures including procedures for orienting a new client to the facility's programs; expectations for clients; prerequisites for continued client enrollment such as a requirement that the client participate in programs; rules of behavior for clients; the location and nature of any security features and arrangements; and names and telephone numbers of persons to contact in emergencies and any emergency procedures.

6. Annual operating budget, including sources of funding.

(Code 2015, § 30-457.3; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.4. Nonconforming uses.

Alterations to buildings or structures devoted to nonconforming uses in the TOD-1 transit-oriented nodal district shall be subject to Section 30-800.1.

(Code 2015, § 30-457.4; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.5. Yards.

Yard regulations in the TOD-1 district shall be as follows (see Article VI, Division 4 of this chapter):

(1) *Front yard.*

a. For dwelling units located on the ground floor:

1. A front yard of at least ten feet shall be required. In no case shall a front yard with a depth greater than 15 feet be permitted, except as may be authorized pursuant to paragraphs (2) or (3) of this subdivision.

2. A front yard with a depth greater than 15 feet may be provided when such front yard is improved for purposes of a pedestrian plaza as permitted by Section 30-440.1 and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an Old and Historic District, the Urban Design Committee shall review the

application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

3. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted, and shall not be subject to the provisions of this subsection.

b. For all other uses:

1. No front yard shall be required. In no case shall a front yard with a depth greater than ten feet be permitted, except as may be authorized pursuant to paragraphs (2) or (3) of this subdivision.

2. A front yard with a depth greater than ten feet may be provided when such front yard is improved for purposes of a pedestrian plaza or outdoor dining area as permitted by Section 30-440.1 and is approved subject to a plan of development as set forth in Article X of this chapter. Except where the property is within an Old and Historic District, the Urban Design Committee shall review the application and plans and submit a recommendation to the Director of Planning and Development Review prior to approval of such plan of development by the Director.

3. A building entrance feature that is set back from the street a greater distance than the primary building façade along the street and that is no greater than two times the width of the building entranceway shall be permitted, and shall not be subject to the provisions of this subsection.

(2) *Side yards.* No side yards shall be required, except that where a side lot line abuts or is situated across an alley from property in an R district there shall be a side yard of not less than 20 feet in width.

(3) *Rear yard.* No rear yard shall be required, except that where a rear lot line abuts or is situated across an alley from property in an R district there shall be a rear yard of not less than 20 feet in depth.

(Code 2015, § 30-457.5; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.6. Usable open space.

In the TOD-1 Transit-Oriented Nodal District, a usable open space ratio of not less than 0.10 shall be provided for newly constructed buildings or portions thereof devoted to dwelling uses.

(Code 2015, § 30-457.6; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.7. Screening.

In the TOD-1 Transit-Oriented Nodal District, the screening of parking areas and refuse areas shall be provided as set forth in Sections 30-660 and 30-710.12.

(Code 2015, § 30-457.7; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.8. Requirements for areas devoted to parking or circulation of vehicles.

(a) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, this subsection shall apply along the principal street frontage of the lot as defined in Section 30-1220 as well as any designated priority street frontage.

(b) *Driveways from streets.* No driveway intersecting a priority or principal street shall be permitted when alley access or another street frontage is available to serve such a lot. For purposes of this subsection, principal street frontage shall be as defined in Section 30-1220.

(c) *Improvement requirements and landscaping standards.* In addition to subsections (a) and (b) of this section, parking areas and parking lots shall be subject to the applicable improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter.

(Code 2015, § 30-457.98 Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.9. Height.

For purposes of this Section 30-457.9, story height as defined in Section 30-1220 shall be not less than ten feet and not greater than 15 feet, except that the ground floor of a building may be of greater height. Height regulations in the TOD-1 district shall be as follows:

(1) *Maximum height.*

a. No building shall exceed 12 stories in height.

b. When a rear lot line abuts or is situated across an alley from property in an R district, no portion of a building should penetrate an inclined plane originating from the third story of the property at the rear building wall and extending over the lot to the front lot line at an inclination of one foot horizontal for each one foot vertical.

c. When a side lot line abuts or is situated across an alley from property in an R district, no portion of a building should penetrate an inclined plane originating from the third story of the property at the side building wall and extending over the lot to the opposite lot line at an inclination of one foot horizontal for each one foot vertical.

(2) *Minimum height.* Every main building hereinafter constructed shall have a minimum height of not less than two stories, except that porches, porticos and similar structures attached to a main building may be of lesser height.

(3) *Determination of number of stories.* For purposes of this section, the number of stories in a building shall be determined by application of the definition of the term "story" set forth in Article XII of this chapter and shall be measured at the building façade along the street frontage of the lot or, in the case of a corner lot, shall be measured at the building façade along the principal street frontage of the lot.

(Code 2015, § 30-457.9; Ord. No. 2017-150, § 2, 9-25-2017)

Sec. 30-457.10. Building façade fenestration.

Fenestration requirements applicable to building façades along street frontages in the TOD-1 Transit-Oriented Nodal District shall be as set forth in this section.

(1) Street level story.

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-457.2(18), (28), and (31), a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of windows or glass doors or both that allow views into and out of the interior building space. Windows used to satisfy this requirement shall have a minimum height of four feet. In the case of a street-level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, a minimum of 30 percent of the building façade above such mean grade level shall be comprised of windows or glass doors or both that allow views into and out of the interior building space, provided that in the case of a street level story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subdivision a shall not apply.

b. *Dwelling uses.* For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage. In the case of a street level story having less than its full height above the mean grade level at the building façade along the street frontage of the lot, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 15 percent of the building façade above such mean grade level, provided that in the case of any portion of a story having less than five feet of its height above the grade level at the building façade along the street frontage of the lot, the requirements of this subdivision b shall not apply. In all cases, windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(2) *Upper stories.*

a. *Nondwelling uses.* For nondwelling uses, other than those listed in Section 30-457.2(18), (28), and

(31), windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story.

b. *Dwelling uses*. For dwelling uses, windows or glass doors or both that allow views out of the interior building space shall comprise a minimum of 30 percent of the building façade between two and eight feet in height above the floor level of each story above the street level story. Such windows shall be double-hung, single-hung, awning or casement type, and fixed windows shall be permitted only as a component of a system including operable windows within a single wall opening.

(Code 2015, § 30-457.10; Ord. No. 2017-150, § 2, 9-25-2017)

ARTICLE V. SIGN REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-500. Findings; purpose and intent; interpretation.

(a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.

(b) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.

(c) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(Code 1993, § 32-500; Code 2004, § 114-500; Code 2015, § 30-500; Ord. No. 2017-149, § 1, 9-11-2017)

Sec. 30-501. Applicability of article.

The regulations contained in this article shall be applicable to signs in all districts as specified. No sign shall be erected, placed, constructed, installed, attached, painted on, moved or altered except in conformity with all of the sections set forth in this article applicable to the particular sign in the district in which it is located.

(Code 1993, § 32-501; Code 2004, § 114-501; Code 2015, § 30-501)

Sec. 30-502. Definitions and calculation of permitted sign area.

(a) *Definitions.* Definitions of the various types of signs are set forth in Article XII of this chapter, together with other definitions of words and terms used in this chapter.

(b) *Calculation of area of sign.* For the purpose of calculating permitted sign area, the area of a sign shall be the smallest individual rectangle, triangle or circle or combination of not more than three contiguous rectangles, triangles or circles which will encompass all elements of the sign, provided that for a freestanding sign, such figures need not be contiguous. The area of a double-faced sign shall be construed to be the area of the largest single face of the sign, provided that the interior angle formed by the two faces does not exceed 30 degrees. When a sign is

placed on a fence, wall or any other structure that serves a separate purpose other than support for the sign, the entire area of such structure shall not be computed as sign area.

(c) *Aggregate area of all signs.* When, for purposes of describing permitted sign area, the sections of this article refer to the aggregate area of all signs on a lot or the aggregate area of all signs directed toward or intended to be viewed from any street frontage, such reference shall include the sum total of the areas of all signs on the lot or the sum total of the areas of all signs directed toward or intended to be viewed from any street frontage, as the case may be, provided that such sum total shall not include the areas of signs that are specifically permitted in all districts by Section 30-505 or the area of any sign that is specifically permitted in addition to or is specifically excluded from calculation of aggregate sign area by the district sign regulations. In no case shall the area of any individual sign permitted by the sign regulations for a particular district exceed the permitted aggregate sign area in that district.

(d) *Signs visible from any street frontage.* When, for the purpose of describing permitted sign area, the sections of this article refer to signs visible from any street frontage, such reference shall include all signs on a lot which are located along a street frontage in such manner that the faces of the signs are oriented to and viewed from any point along the street providing such frontage, as well as signs located on a side of a building in such manner as to be viewed from the same street. For a lot having multiple street frontages, the area of signs that can be viewed from more than one street shall be attributed to the street frontage along which such signs have the more direct orientation and are more easily visible.

(e) *Buildings greater than one story in height.* In the case of a building greater than one story in height where permitted sign area is determined by building frontage along a street, the permitted aggregate sign area shall be calculated based on the frontage of the ground floor of the building or buildings located on the lot. Stories other than the ground floor shall not be considered to be separate buildings. The location of permitted signs on such building shall be governed by the district sign regulations and other applicable provisions of this article and shall not be limited to the ground floor of the building.

(Code 1993, § 32-502(1)—(4); Code 2004, § 114-502; Code 2015, § 30-502; Ord. No. 2006-329-2007-11, § 1, 1-8-2007; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2017-149, § 1, 9-11-2017)

Cross reference—Definitions generally, § 1-2.

Sec. 30-503. Prohibited signs.

The following shall be prohibited in all districts:

(1) Animated signs.

(2) Portable signs.

(3) Commercial flag signs, pennant signs, and any other attention-getting signs or devices such as streamers, balloons, or inflatable devices of any configuration acting to attract attention to any use other than noncommercial activity at a residential use.

(4) Vehicle or trailer signs.

(5) Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.

(6) Signs that emit sound.

(7) Off-premises signs, unless specifically permitted by this chapter.

(8) Window signs whose aggregate area on a window or door exceed 25 percent of the total area of the window or door.

(9) Any sign displayed without complying with all applicable regulations of this chapter.

(Code 1993, § 32-503; Code 2004, § 114-503; Code 2015, § 30-503; Ord. No. 2017-149, § 1, 9-11-2017)

Sec. 30-504. General provisions to qualify, supplement or modify other provisions.

The following subsections qualify, supplement or modify, as the case may be, the district sign regulations and shall apply to signs in all districts:

(1) *Signs to be located on main buildings.* Unless specifically indicated to the contrary by this article, permitted wall signs, projecting signs and other signs attached to buildings may be attached to main buildings or may be attached to accessory buildings.

(2) *Compliance with building code.* All signs shall conform to applicable sections of the Virginia Uniform Statewide Building Code.

(3) *Illumination of signs.* Unless otherwise specified by this article, permitted signs may be illuminated, provided the source of illumination is of such type and is located, directed or shielded so as not to shine directly on adjoining properties or streets.

(4) *Interference with traffic.* No sign shall be located, arranged, designed or illuminated in such a manner that it interferes with traffic by any of the following means:

a. Glare;

b. Confusion with a traffic control device by reason of its color, location, shape, or other characteristic;

c. Similarity to or confusion with official signs, traffic signals, warning lights or lighting on emergency vehicles; or

d. Any other means.

(5) *Underclearance for projecting signs, awning signs, canopy signs, and suspended signs.* Projecting signs, awning signs, canopy signs, and suspended signs shall be provided with an underclearance of not less than eight feet.

(6) *Painted wall signs.* The total area of all wall signs painted on a building wall shall not exceed 25 percent of the area of such wall.

(7) *Wall signs facing lots in R or RO district.* No wall sign located on a lot in a UB, UB-2, B-1, B-2 or B-3 district shall face an abutting lot located in an R or RO district unless separated therefrom by an off-street parking area serving the lot in the UB, UB-2, B-1, B-2 or B-3 district.

(8) *Signs along alley frontages.* Any portion of the aggregate sign area permitted on a lot may be allocated to wall signs attached to a building and oriented to an alley abutting the lot, provided that no such sign adjacent to or across an alley from an R or RO district shall be illuminated.

(9) *Encroachment or extension beyond property lines.* No portion of any sign or its supporting structure shall extend beyond the property lines of the lot on which it is located, provided that a sign permitted by this article may extend into or project over the right-of-way of a public street, public alley or other public way when in compliance with and authorized pursuant to the encroachment policies and regulations of the City. The area of such sign shall be included in the calculation of permitted sign area under this article.

(10) *Service station pump island and canopy signs.* Signs displayed on service station pump islands shall not be included in the calculation of aggregate sign area permitted on a lot, provided that such signs do not exceed a total of six square feet per pump face within the pump island. Signs displayed on service station pump island canopies shall be included in the calculation of aggregate sign area permitted on a lot, shall not exceed ten square feet each in area, and not more than one such sign shall be displayed on each side of a pump island canopy.

(11) *Illuminated awnings and canopies.* Except as provided in subsection (10) of this section, no awning or canopy, whether or not it contains any awning or canopy sign as defined in Section 30-1220, shall be illuminated by internal or integral means or by outlining its extremities, provided that lighting external to an awning or canopy may be provided for purposes of illuminating a building or entrance thereto.

(Code 1993, § 32-504; Code 2004, § 114-504; Code 2015, § 30-504; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2017-149, § 1, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-504.01. General provisions to qualify, supplement or modify other provisions related to awning signs.

The following subsections qualify, supplement or modify, as the case may be, the district sign regulations and

shall apply to awning signs in all districts:

(1) The horizontal projection (i.e., depth) of any awning containing an awning sign shall not exceed ten feet from the face of the building to which it is attached.

(2) The vertical distance (i.e., height) from the top to the bottom of any awning containing an awning sign shall not exceed four feet, including the valance.

(3) No portion of any awning containing an awning sign shall extend above any part of the windowsill level of the story, if any, above it.

(4) Any awning containing an awning sign shall be attached immediately above the lintel.

(5) An awning sign may be attached on the awning valance or the shed of the awning.

(6) Awning signs shall not be permitted above the ground floor of the building.

(7) Awning signs shall not exceed a maximum width of 75 percent of the awning length and shall not exceed a maximum of 50 percent of the awning height.

(8) Awning signs shall be permitted on awning ends.

(9) Any awning containing an awning sign shall not obscure distinctive or unique architectural elements.

(Code 2015, § 30-504.01; Ord. No. 2018-209, § 3, 9-10-2018)

Sec. 30-504.02. General provisions to qualify, supplement or modify other provisions related to canopy signs.

The following subsections qualify, supplement or modify, as the case may be, the district sign regulations and shall apply to canopy signs in all districts:

(1) The horizontal projection (i.e., depth) of any canopy containing a canopy sign shall not exceed ten feet from the face of the building to which it is attached.

(2) The vertical distance (i.e., height) from the top to the bottom of any canopy containing a canopy sign shall not exceed two feet, including the valance.

(3) No portion of any canopy containing a canopy sign shall extend above any part of the windowsill level of the story, if any, above it.

(4) Any canopy containing a canopy sign shall be attached above the lintel.

(5) A canopy sign shall be attached completely below or completely above the canopy fascia or completely within the perimeter limits of the canopy fascia.

(6) Canopy signs shall not extend outside the length of the canopy.

(7) Canopy signs shall not be permitted above the ground floor of the building.

(8) Canopy signs shall not exceed a maximum width of 75 percent of the canopy or canopy fascia.

(9) Canopy signs shall not be permitted on canopy ends.

(10) Canopy signs shall be constructed of individual freestanding letters, numbers, other characters, or logos and shall not:

a. Exceed 24 inches in height.

b. Exceed 12 inches in depth.

(11) Any canopy containing a canopy sign shall not obscure distinctive or unique architectural elements.

(Code 2015, § 30-504.02; Ord. No. 2018-209, § 3, 9-10-2018)

Sec. 30-504.1. Maintenance and removal of signs.

(a) All signs shall be constructed and mounted in compliance with the Virginia Uniform Statewide Building Code.

(b) All signs and components thereof shall be maintained in good repair and in a safe, neat and clean condition.

(c) The building official may cause to have removed or repaired immediately without written notice any sign which, in his opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof.

(d) Not including any off-premises signs permitted pursuant to this article, the owner of any sign used to attract attention to a commercial use, product, service, or activity and located on a lot on which the use or business has ceased operating shall, within 60 days of the cessation of use or business operation, replace the sign face with a blank face until such time as a use or business has resumed operating on the lot.

(e) Sign condition, safety hazard, nuisance abatement, and abandonment.

(1) Any sign which becomes a safety hazard or which is not kept in a reasonably good state of repair shall be put in a safe and good state of repair within 30 days of a written notice to the owner and permit holder.

(2) Any sign which constitutes a nuisance may be abated by the City under the requirements of Code of Virginia, § 15.2-900, 15.2-906, or 15.2-1115, as applicable.

(Code 2015, § 30-504.1; Ord. No. 2017-149, § 2, 9-11-2017)

DIVISION 2. DISTRICT SIGN REGULATIONS*

***Cross reference**—License tax for wall and bulletin sign painters, billposters and electric advertising sign business, § 26-930.

Sec. 30-505. Signs permitted in all districts.

The following signs shall be permitted in all zoning districts, and the area of such signs shall not be included in calculating the maximum permitted area of signs permitted on any lot:

(1) Temporary sign on lot for sale or rent. On any lot for sale or rent, one or more temporary signs not exceeding an aggregate area of six square feet along each street frontage of such lot, provided such signs shall not be illuminated and shall be removed when the lot is no longer being offered for sale or rent. If affixed to the ground, such signs shall not be located within five feet of any street line or within 15 feet of any other property line.

(2) Temporary construction signs. On any building under construction, not more than two temporary signs not exceeding an aggregate area of 32 square feet. If affixed to the ground, such signs shall not be located within five feet of any street line or within 15 feet of any other property line.

(3) Subdivision development signs. At the entrance of any approved subdivision that is under development, one freestanding sign not to exceed 32 square feet in area, provided such sign shall not be illuminated and shall not be displayed for longer than one year. Such sign shall not be located within five feet of any street line or within 15 feet of any other property line.

(4) On-site traffic directional signs. Noncommercial signs located on private property devoted to uses other than single-family or two-family dwellings and directing and guiding traffic or persons or identifying parking on such property provided such signs do not exceed four square feet in area. If freestanding, such signs shall not exceed five feet in height and shall not be located within three feet of any street line or other property line.

(5) Noncommercial flags and banners. Noncommercial flags and banners containing no commercial message, logo or name of a business or product and not displayed in connection with a commercial promotion or for purposes of attracting attention to a commercial activity.

(6) Minor signs. Minor signs.

(7) Governmental signs. Signs erected by a governmental body or required to be erected by law.

(8) Signs erected and maintained by a public utility showing the location of underground facilities or providing other information pertaining to public safety.

(9) Any sign that is required to be maintained or restored as a result of being designated as a historic sign or a contributing feature by the National Register of Historic Places, the Virginia Landmarks Register, or the Commission of Architectural Review pursuant to Article IX, Division 4 of this chapter.

(Code 1993, § 32-505; Code 2004, § 114-505; Code 2015, § 30-505; Ord. No. 2006-197-217, § 4, 7-24-2006; Ord. No. 2017-149, § 3, 9-11-2017)

Sec. 30-506. R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7 and R-8 districts.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7 and R-8 residential districts:

(1) *Nondwelling uses permitted by right.* On any lot utilized for nondwelling uses permitted by right, not more than two wall signs, awning signs, or canopy signs not exceeding an aggregate of 16 square feet in area on each building frontage along a street and one freestanding sign not exceeding 32 square feet in area on each site shall be permitted.

(2) *Nondwelling uses permitted by conditional use permit.* On any lot utilized for nondwelling uses permitted by conditional use permit, wall signs, awning signs, and canopy signs not exceeding an aggregate of 16 square feet in area on each lot shall be permitted. Such signs shall not be illuminated.

(3) *Signs at entrance to residential neighborhoods and residential subdivisions.* One freestanding sign not exceeding 32 square feet in area at each entrance to a residential neighborhood or residential subdivision, but not more than a total of two such signs, shall be permitted.

(4) *Freestanding sign limitations.* Freestanding signs shall not exceed a height of eight feet and shall not be located within five feet of any street line or within 15 feet of any other property line.

(Code 1993, § 32-506; Code 2004, § 114-506; Code 2015, § 30-506; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-507. R-43, R-48, R-53 and R-73 districts.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in R-43, R-48, R-53 and R-73 Multifamily Residential Districts:

(1) *Signs permitted in R-1 through R-8 districts.* Any sign permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts as set forth in Section 30-506 shall be permitted.

(2) *Signs identifying other permitted uses.* On any lot utilized for any use permitted by right other than those uses set forth in Section 30-506(1), wall signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, provided that:

a. The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed 12 square feet for street frontages of less than 100 feet, 20 square feet for street frontages of 100 feet to 300 feet, and 32 square feet for street frontages of greater than 300 feet.

b. Not more than one freestanding sign shall be permitted along each street frontage. Freestanding signs shall not exceed a height of eight feet and shall not be located within five feet of any street line or within 15 feet of any other property line.

(Code 1993, § 32-507; Code 2004, § 114-507; Code 2015, § 30-507; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-507.1. R-63 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the R-63 Multifamily Urban Residential District:

(1) *Signs identifying uses permitted in R-1 through R-8 districts.* Any sign permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts as set forth in Section 30-506 shall be permitted.

(2) *Signs identifying other permitted uses.* On any lot utilized for any use permitted by right other than those uses set forth in Section 30-506(1), wall signs, suspended signs, awning signs, and canopy signs shall be permitted, provided that the aggregate area of all signs directed toward or intended to be viewed from

any street frontage shall not exceed one square foot for each linear foot of building frontage along such street, nor in any case 16 square feet.

(3) *Projecting signs.* On any lot utilized for principal uses permitted only on corner lots as listed in Section 30-419.3, projecting signs shall be permitted, provided that:

a. No projecting sign shall exceed six square feet in area or be located within 25 feet of another projecting sign on the same building wall.

b. No projecting sign, other than a noncommercial flag, shall project greater than three feet from the face of the building or extend above the height of the wall to which it is attached.

c. The area of projecting signs shall be included in the calculation of maximum permitted aggregate area of all signs.

(Code 2004, § 114-507.1; Code 2015, § 30-507.1; Ord. No. 2006-197-217, § 2, 7-24-2006; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-508. Sign regulations in the R-MH Manufactured Home District.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the R-MH Manufactured Home District:

(1) *Signs identifying uses permitted in R-1 through R-8 districts.* Any sign permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts as set forth in Section 30-506.

(2) *Manufactured home parks.* On any lot utilized for a manufactured home park, one wall sign or freestanding sign not exceeding 32 square feet in area shall be permitted, provided that freestanding signs shall not exceed a height of eight feet and shall not be located within five feet of any street line or within 15 feet of any other property line.

(Code 1993, § 32-508; Code 2004, § 114-508; Code 2015, § 30-508; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2017-149, § 3, 9-11-2017)

Sec. 30-509. RO-1, RO-2 and RO-3 districts.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in RO-1, RO-2, and RO-3 Residential-Office Districts:

(1) *Signs identifying uses permitted in R-1 through R-8 districts.* Any sign permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts as set forth in Section 30-506 shall be permitted.

(2) *Signs identifying other permitted uses.* On any lot utilized for any use permitted by right other than those uses set forth in Section 30-506(1), wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, provided that:

a. The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed 12 square feet for street frontages of less than 100 feet, 20 square feet for street frontages of 100 feet to 300 feet, and 32 square feet for street frontages of greater than 300 feet. In addition thereto, where two or more main buildings occupied by nondwelling uses are located on a lot, each such building may be permitted with a wall sign not exceeding 12 square feet in area.

b. No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

c. Not more than one freestanding sign shall be permitted along each street frontage. Freestanding signs shall not exceed a height of eight feet and shall not be located within five feet of any street line or within 15 feet of any other property line.

(Code 1993, § 32-509; Code 2004, § 114-509; Code 2015, § 30-509; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209,

§ 1, 9-10-2018)

Sec. 30-510. HO district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the HO Hotel-Office District:

(1) *Signs identifying uses permitted in R-1 through R-8 districts.* Any sign permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts as set forth in Section 30-506 shall be permitted.

(2) *Other permitted uses.* On any lot utilized for any use permitted by right other than those uses set forth in Section 30-506(1), wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, provided that:

a. The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage. In addition thereto, one wall sign may be located on the face of a building above a height of 100 feet when no other signs are located on such face above a height of 35 feet. The area of such sign shall not exceed 300 square feet.

b. No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

c. Not more than one freestanding sign shall be permitted along each street frontage. Freestanding signs shall not exceed 50 square feet in area or eight feet in height.

(Code 1993, § 32-510; Code 2004, § 114-510; Code 2015, § 30-510; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-511. I district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the I Institutional District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs visible from any street frontage shall not exceed 32 square feet. In addition thereto, where two or more main buildings are located on a lot, each building may be permitted to have a wall sign not exceeding 12 square feet in area.

(3) *Projecting signs.* No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* Not more than one freestanding sign shall be permitted along each street frontage. Freestanding signs shall not exceed a height of eight feet and shall not be located within five feet of any street line or within 25 feet of any lot in an R or RO district.

(Code 1993, § 32-511; Code 2004, § 114-511; Code 2015, § 30-511; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-512. UB and UB-2 districts.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the UB and UB-2 Urban Business Districts:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and

freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs located on a lot shall not exceed one square foot for each linear foot of street frontage nor in any case 100 square feet, provided that:

a. No individual sign shall exceed the smaller of 32 square feet in area or such smaller sign area specified elsewhere in this article.

b. For a lot having frontage on more than one street, permitted sign area shall be determined by the street frontage having the greatest dimension.

c. Where more than one main building is located on a lot, the aggregate area of all signs attached to each building shall not exceed one square foot for each linear foot of building frontage along the street nor in any case 100 square feet for each building frontage along a street, and in addition thereto such lot shall be permitted one freestanding sign subject to the restrictions set forth in subsection (4) of this section.

(3) *Projecting signs.* No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* Freestanding signs shall be permitted subject to the following:

a. One freestanding sign not exceeding 16 square feet in area or ten feet in height shall be permitted. Except as set forth in subdivision b of this subsection, such sign shall be included in the calculation of the permitted sign area set forth in subsection (2) of this section.

b. On any lot utilized for a shopping center, one freestanding sign not exceeding 32 square feet in area or ten feet in height shall be permitted on a shopping center site provided no other freestanding signs are located on such lot. Such sign shall not be included in calculation of the permitted sign area set forth in subsection (2) of this section.

(Code 1993, § 32-512; Code 2004, § 114-512; Code 2015, § 30-512; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-513. B-1 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-1 Neighborhood Business District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs located on a lot shall not exceed one square foot for each linear foot of street frontage nor in any case 100 square feet, provided that:

a. This subsection shall not be construed to restrict any lot to less than 32 square feet of sign area.

b. For a lot having frontage on more than one street, permitted sign area shall be determined by the street frontage having the greatest dimension.

c. Where more than one main building is located on a lot, the formula for determining permitted sign area in this subsection shall apply to individual buildings and building frontages along a street, rather than to lots and lot frontages.

(3) *Projecting signs.* No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* Freestanding signs shall be permitted only on lots utilized for uses set forth in Section 30-506(1) and shall be subject to the restrictions applicable to freestanding signs as set forth in Section

30-506. Such signs shall be included in the calculation of the permitted sign area set forth in subsection (2) of this section.

(Code 1993, § 32-513; Code 2004, § 114-513; Code 2015, § 30-513; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-514. B-2 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-2 Community Business District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed one square foot for each linear foot of street frontage nor in any case 250 square feet for each street frontage, provided that this shall not be construed to restrict any lot to less than 40 square feet of sign area per street frontage. Where more than one main building is located on a lot, the formula in this subsection for determining permitted sign area shall apply to individual buildings and building frontages along a street, rather than to lots and lot frontages.

(3) *Projecting signs.* No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* Freestanding signs shall be permitted subject to the following:

a. Not more than one freestanding sign shall be permitted along each street frontage. The total square footage attributable to a freestanding sign shall not exceed 100 square feet in area, nor shall a freestanding sign exceed 35 feet in height.

b. On any lot less than two acres in area and utilized for a shopping center, one freestanding sign not exceeding 100 square feet in area or 35 feet in height shall be permitted. On any such lot having multiple street frontages, one additional freestanding sign shall be permitted along each street frontage of 300 feet or more. Such freestanding signs shall not be included in the calculation of the permitted sign area set forth in subsection (2) of this section.

(Code 1993, § 32-514; Code 2004, § 114-514; Code 2015, § 30-514; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-515. B-3 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-3 General Business District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, freestanding signs and off-premises signs shall be permitted, subject to the restrictions set forth in this section and Section 30-504.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage, provided that this shall not be construed to restrict any lot to less than 50 square feet of sign area per street frontage. Where more than one main building is located on a lot, the formula in this subsection for determining permitted sign area shall apply to individual buildings and building frontages along a street, rather than to lots and lot frontages.

(3) *Projecting signs.* No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which

it is attached.

(4) *Freestanding signs.* Freestanding signs shall be permitted subject to the following:

a. Not more than one freestanding sign shall be permitted along each street frontage. The total square footage attributable to a freestanding sign shall not exceed 100 square feet in area, nor shall a freestanding sign exceed 35 feet in height.

b. On any lot less than two acres in area and utilized for a shopping center, one freestanding sign not exceeding 100 square feet in area or 35 feet in height shall be permitted. On any such lot having multiple street frontages, one additional freestanding sign shall be permitted along each street frontage of 300 feet or more. Such freestanding signs shall not be included in the calculation of the permitted sign area set forth in subsection (2) of this section.

(5) *Off-premises signs.* Off-premises signs shall be permitted provided such off-premises signs are oriented towards, visible from, and located within 660 feet of the right-of-way of an interstate highway, and further provided that:

a. Such signs shall not exceed 700 square feet in area or 35 feet in height.

b. No two structures shall be spaced less than 500 feet apart along the same side of the highway. The distance between structures shall be measured along the nearest edge of the pavement between points marking the intersections of the edge of the pavement and perpendiculars extending from the edge of the pavement to the structures.

c. No such structure shall be located within 500 feet of an interchange. The distance from an interchange shall be measured along the nearest edge of the pavement between points marking the beginning or ending of the pavement widening at the exit ramp from or entrance ramp to the main traveled way and a point marking the intersection of the edge of the pavement and a perpendicular extending from the edge of the pavement to the structure.

(Code 1993, § 32-515; Code 2004, § 114-515; Code 2015, § 30-515; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-516. B-4 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-4 Central Business District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* Permitted sign area shall be as follows:

a. The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 200 square feet for each street frontage.

b. In addition to the permitted sign area set forth in subsection (2)a of this section, one wall sign not exceeding 300 square feet may be located on each face of a building above a height of 100 feet when no other signs are located on such face above a height of 35 feet, provided that the permitted sign area for any building face may be increased by up to 25 percent by transferring permitted sign area from another face of the same building.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* One freestanding sign not exceeding 50 square feet in area or eight feet in height shall be permitted along each street frontage, provided that a flag shall not exceed a height of 35 feet.

(Code 1993, § 32-516; Code 2004, § 114-516; Code 2015, § 30-516; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-517. B-5 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-5 Central Business District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, and canopy signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(Code 1993, § 32-517; Code 2004, § 114-517; Code 2015, § 30-517; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-518. B-6 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-6 Mixed Use Business Districts:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed one square foot for each linear foot of lot frontage along the street nor in any case 32 square feet for each street frontage. Where more than one main building is located on a lot, the above formula for determining permitted sign area shall apply to individual buildings and building frontages along a street, rather than to lots and lot frontages.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* One freestanding sign not exceeding 16 square feet in area or six feet in height shall be permitted along each street frontage.

(Code 1993, § 32-518; Code 2004, § 114-518; Code 2015, § 30-518; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2006-329-2007-11, § 1, 1-8-2007; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-518.1. B-7 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the B-7 Mixed-Use Business District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, freestanding signs and roof signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage. Where more than one main building is located on a lot, the above formula for determining permitted sign area shall apply to individual buildings and building frontages along a street, rather than to lots and lot frontages.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* One freestanding sign not exceeding 50 square feet in area or 15 feet in height shall be permitted along each street frontage.

(5) *Roof signs.* Roof signs located on buildings utilized for uses permitted by Section 30-446.2(46), when such signs are lawfully existing on the effective date of the ordinance from which this section is derived to include the property in the B-7 district, and provided that such signs shall not be included in the calculation of permitted sign area set forth in subsection (2) of this section.

(Code 2004, § 114-518.1; Code 2015, § 30-518.1; Ord. No. 2010-19-31, § 2, 2-22-2010; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-518.2. RF-1 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the RF-1 Riverfront District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* One freestanding sign not exceeding 50 square feet in area or ten feet in height shall be permitted along each street frontage of 150 feet or more, provided freestanding signs not exceeding 60 square feet in area or 12 feet in height in addition to other signs permitted by this section, and shall not be included in the calculation of aggregate sign area permitted on any lot.

(Code 1993, § 32-518.2; Code 2004, § 114-518.2; Code 2015, § 30-518.2; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-518.3. RF-2 district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the RF-2 Riverfront District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* One freestanding sign not exceeding 50 square feet in area or ten feet in height shall be permitted along each street frontage of 150 feet or more, provided freestanding signs not exceeding 60 square feet in area or 12 feet in height in addition to other signs permitted by this section, and shall not be included in calculation of aggregate sign area permitted on any lot.

(Code 1993, § 32-518.3; Code 2004, § 114-518.3; Code 2015, § 30-518.3; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-518.4. TOD-1 district.

In addition to the regulations set forth in this article applicable to signs in all districts, the following signs shall

be permitted and the following sign regulations shall apply in the TOD-1 transit-oriented nodal district:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 200 square feet for each street frontage.

(3) *Projecting signs.* Projecting signs shall be permitted subject to the following:

a. No projecting sign shall be located within 15 feet of another projecting sign on the same building wall.

b. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

c. The aggregate area of all projecting signs shall not exceed 100 square feet.

(4) *Freestanding signs.* One freestanding sign not exceeding 20 square feet in area or five feet in height shall be permitted.

(5) *Roof signs.* Roof signs located on buildings utilized for uses permitted by Section 30-457.2, when such signs are lawfully existing on the effective date of the ordinance from which this section is derived, provided that such signs shall not be included in calculation of permitted sign area set forth in subsection (2) of this section.

(Code 2015, § 30-518.4; Ord. No. 2017-150, § 3, 9-25-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-519. CM district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the CM Coliseum Mall District (see Sections 30-502 through 30-504 and 30-505):

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, and canopy signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street or mall frontage shall not exceed two square feet for each linear foot of lot frontage along the street or mall nor in any case 300 square feet for each street frontage.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(Code 1993, § 32-519; Code 2004, § 114-519; Code 2015, § 30-519; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-520. DCC district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the DCC Downtown Civic and Cultural District:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street or mall frontage shall not exceed two square feet for each linear foot of lot frontage along the street or mall.

(3) *Projecting signs.* No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

(4) *Freestanding signs.* Freestanding signs shall be permitted subject to the following:

a. One freestanding sign not exceeding 50 square feet in area or ten feet in height shall be permitted along each street frontage of 150 feet or more.

b. Uses located on a mall and outside of an enclosed building which are not otherwise entitled to any sign under subsection (2) of this section and subdivision a of this subsection shall be permitted one freestanding sign not exceeding 12 square feet in area.

(Code 1993, § 32-520; Code 2004, § 114-520; Code 2015, § 30-520; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-521. OS district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the OS Office-Service District:

(1) *Signs permitted in R-1 through R-8 districts.* Any sign permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts as set forth in Section 30-506 shall be permitted.

(2) *Other permitted uses.* On any lot utilized for any use permitted by right other than those uses set forth in Section 30-506(1), wall signs, projecting signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, provided that:

a. The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed 12 square feet for street frontages of less than 100 feet, 20 square feet for street frontages of 100 feet to 300 feet, and 32 square feet for street frontages of greater than 300 feet. In addition thereto, where two or more main buildings are located on a lot, each such building may be permitted to have a wall sign not exceeding 12 square feet in area.

b. No projecting sign shall exceed 24 square feet in area or be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

c. One freestanding sign shall be permitted. Freestanding signs shall not exceed a height of eight feet and shall not be located within five feet of any street line or within 15 feet of any other property line.

(Code 1993, § 32-521; Code 2004, § 30-521; Code 2015, § 30-521; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-522. RP district.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the RP Research Park District:

(1) *Types of permitted signs.* Wall signs, suspended signs, awning signs, canopy signs, and freestanding signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed two square feet for each linear foot of lot frontage along the street nor in any case 200 square feet for each street frontage.

(3) *Awning and canopy signs.* Not more than one sign shall be attached to each face of an awning or canopy, and no such sign shall exceed 12 square feet in area.

(4) *Freestanding signs.* One freestanding sign not exceeding 25 square feet in area or eight feet in height shall be permitted along each street frontage, provided that:

a. On any lot used as a parking lot, one freestanding sign not exceeding 12 square feet in area or eight feet in height shall be permitted along the frontage of each street from which public vehicular access

is provided to the parking lot.

b. On any lot used as a research park, freestanding signs not exceeding 60 square feet in area or 12 feet in height shall be permitted in addition to other signs permitted by this section and shall not be included in the calculation of aggregate sign area permitted on any lot.

(Code 1993, § 32-522; Code 2004, § 114-522; Code 2015, § 30-522; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

Sec. 30-523. M-1 and M-2 districts.

Unless specifically provided otherwise in this article and subject to the regulations and restrictions applicable to all districts set forth in this article, the following signs shall be permitted and the following sign regulations shall apply in the M-1 and M-2 Industrial Districts:

(1) *Types of permitted signs.* Wall signs, projecting signs, suspended signs, awning signs, canopy signs, freestanding signs, roof signs, and off-premises signs shall be permitted, subject to the restrictions set forth in this section.

(2) *Permitted sign area.* The aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed three square feet for each linear foot of lot frontage along the street nor in any case 300 square feet for each street frontage, provided that this shall not be construed to restrict any lot to less than 50 square feet of sign area per street frontage. Where more than one main building is located on a lot, the formula in this subsection for determining permitted sign area shall apply to individual buildings and building frontages along a street, rather than to lots and lot frontages.

(3) *Off-premises signs.* Off-premises signs shall be subject to the regulations applicable in the B-3 General Business District set forth in Section 30-515(5).

(Code 1993, § 32-523; Code 2004, § 114-523; Code 2015, § 30-523; Ord. No. 2017-149, § 3, 9-11-2017; Ord. No. 2018-209, § 1, 9-10-2018)

DIVISION 3. NONCONFORMING USES AND NONCONFORMING SIGNS

Sec. 30-524. Signs identifying nonconforming uses.

On any lot utilized for a nonconforming use and located in an R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, or R-8 residential district, one wall sign shall be permitted, provided that such sign shall not exceed 12 square feet in area and shall not be illuminated. On any lot utilized for a nonconforming use and located in any district other than an R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, or R-8 residential district, signs shall conform to the sign regulations applicable in the district in which the lot is located.

(Code 1993, § 32-524; Code 2004, § 114-524; Code 2015, § 30-524; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2017-149, § 4, 9-11-2017)

Sec. 30-525. Nonconforming signs.

(a) A nonconforming sign as defined in Section 30-1220 may remain except as set forth in this section. The owner of the property shall bear the burden of establishing the nonconforming status of a sign and of the physical characteristics and location of such a sign. Upon notice from the zoning administrator, a property owner shall submit verification that the sign lawfully existed at the time of erection. Failure to provide such verification shall be cause for an order to remove the sign or to bring the sign into compliance with the current provisions of this chapter.

(b) No nonconforming sign shall be enlarged, and no feature of a nonconforming sign, such as illumination, shall be increased.

(c) No provision of this section shall be interpreted or construed to prevent the keeping in good repair of a nonconforming sign. Nonconforming signs shall not be extended, structurally reconstructed, or altered in any manner except that a sign face may be changed if the new face is equal to or reduced in height or sign area, either or both.

(d) No nonconforming sign shall be moved any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.

(e) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50 percent of its area may be restored within two years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding 50 percent, it shall not be reconstructed but may be replaced with a sign that is in full accordance with the provisions of this article.

(f) A nonconforming sign which is changed to becoming conforming or which is replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.

(g) A nonconforming sign structure shall be subject to the removal provisions of this chapter. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. The owner or lessee of the property shall remove such a sign structure. If the owner or lessee fails to remove the sign structure, the zoning administrator shall give the owner written notice that the sign must be removed within 15 days after the notice is given. If the owner fails to comply with this notice, the zoning administrator may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to bring the sign into compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

(Code 1993, § 32-525; Code 2004, § 114-525; Code 2015, § 30-525; Ord. No. 2017-149, § 4, 9-11-2017)

Sec. 30-526. Unlawful signs.

Nothing contained in this article shall be construed to authorize or permit the continuance of any sign which was in violation of any chapter of this Code pertaining to zoning and preceding this chapter, and any such sign shall not be deemed to be nonconforming under this chapter and shall be unlawful.

(Code 1993, § 32-526; Code 2004, § 114-526; Code 2015, § 30-526)

DIVISION 4. PERMITS

Sec. 30-527. Required.

(a) Except as provided in subsection (b) of this section, any sign permitted by this article for which a permit to erect a sign is not required by the Virginia Uniform Statewide Building Code or any other building code which may be adopted by the City shall require a certificate of zoning compliance as set forth in Article X, Division 3 of this chapter.

(b) Notwithstanding the provisions of subsection (a) of this section, the following signs, displays, and devices, shall not require a certificate of zoning compliance:

(1) Noncommercial flags and banners containing no commercial message, logo, or name of a business or product and not displayed in connection with a commercial promotion or for purposes of attracting attention to a commercial activity.

(2) Minor signs.

(3) Signs erected by a governmental body or required to be erected by law.

(4) Signs erected and maintained by a public utility showing the location of underground facilities or providing other information pertaining to public safety.

(Code 1993, § 32-527; Code 2004, § 114-527; Code 2015, § 30-527; Ord. No. 2017-149, § 5, 9-11-2017)

ARTICLE VI. SUPPLEMENTAL REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-600. Applicability of article.

The regulations contained in this article are exceptions to and qualify, supplement or modify, as the case may be, the regulations and requirements contained in Article IV of this chapter.

(Code 1993, § 32-600; Code 2004, § 114-600; Code 2015, § 30-600)

DIVISION 2. STREET FRONTAGE AND ACCESS TO LOTS

Sec. 30-610.1. Public street frontage and access easements.

Except as provided in Sections 30-610.2 and 30-610.3, every building erected and every use established shall be located on a lot having frontage on an improved public street or access thereto by means of a recorded permanent easement, provided that such easement is approved by the Director of Public Works, the Chief of Police and the Chief of Fire and Emergency Services as to its suitability for all-weather travel by public and emergency vehicles and provided, further, that appropriate agreements or covenants approved by the City Attorney provide for continued maintenance thereof. For single-family detached development, no more than two lots which do not have public street frontage shall be served by any such easement unless the easement shall have been recorded prior to June 10, 1960.

(Code 1993, § 32-610.1; Code 2004, § 114-610.1; Code 2015, § 30-610.1)

Sec. 30-610.2. Frontage for attached dwellings.

Individual lots within an attached dwelling development may front on private streets or common courts where the development site considered in its entirety has frontage on a public street and when the means of access to each lot is approved by the Director of Public Works, the Chief of Police and the Chief of Fire and Emergency Services and when appropriate easements, agreements or covenants approved as to form by the City Attorney provide for permanent public access and continued maintenance.

(Code 1993, § 32-610.2; Code 2004, § 114-610.2; Code 2015, § 30-610.2)

Sec. 30-610.3. Alley frontage for accessory buildings, structures or uses.

A permitted accessory building, structure or use may be located on a lot or portion thereof having frontage only on an improved public alley, provided that:

(1) Such lot is situated within the same entire block as the permitted principal use.

(2) No yards shall be required for such accessory structure.

(3) There shall be no maximum lot coverage requirement.

(4) The accessory building or structure shall not exceed 12 feet in height.

(5) The accessory building may not contain a dwelling or lodging unit or short-term rental.

(Code 1993, § 32-610.3; Code 2004, § 114-610.3; Code 2015, § 30-610.3; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2020-171, § 1(30-610.3), 9-28-2020)

DIVISION 3. LOTS AND LOT AREAS

Sec. 30-620.1. Lots recorded prior to effective date of requirements.

(a) *Lot area and density.* Minimum lot area and maximum density requirements set forth in this chapter for single-family dwellings shall not apply to lots legally recorded prior to the effective date of the ordinance from which such requirements are derived.

(b) *Lot and unit width.* Minimum lot and unit width requirements set forth in this chapter for single-family and two-family dwellings shall not apply to lots legally recorded prior to the effective date of the ordinance from which such requirements are derived.

(c) *Side yards on lots of substandard widths.* In any district except R-7, R-8 and R-63 districts, a single-family detached or two-family dwelling on a lot less than 50 feet in width legally recorded prior to the effective date of the ordinance from which such requirements are derived shall have a side or street side yard adjacent to each side lot line of not less than ten percent of the width of the lot, but in no case less than three feet. An addition to the area of a lot which increases the width of the lot shall be permitted and shall not be deemed to create a violation of a side yard requirement applicable to an existing building located on the lot.

(d) *Side yard for attached dwellings on lots of substandard width.* In any district except R-7, R-8 and R-63 districts, a single-family or two-family attached dwelling at the end of a series of attached units and located on a lot less than 50 feet in width recorded prior to the effective date of the ordinance from which such requirements are

derived shall have a side yard of not less than ten percent of the width of the lot, but in no case less than three feet.

(e) *Street side yard on lots of substandard widths.* In any district except R-7, R-8, and R-63 districts, a single-family detached, attached, or two-family dwelling on a lot less than 50 feet in width along the principal street frontage legally recorded prior to the effective date of the ordinance from which such requirements are derived shall have a street side yard along any street frontage where a front yard is not required of not less ten percent of the width of the lot, but in no case less than three feet. An addition to the area of a lot which increases the width of the lot shall be permitted and shall not be deemed to create a violation of a side yard requirement applicable to an existing building located on the lot.

(Code 1993, § 32-620.1; Code 2004, § 114-620.1; Code 2015, § 30-620.1; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2020-171, § 1(30-620.1), 9-28-2020)

Sec. 30-620.2. More than one main building on lot.

(a) More than one main building containing a permitted use, other than a single-family dwelling, or a two-family dwelling in an R-5A, R-6, R-7 or R-8 district, may be erected on a lot, provided that the regulations applicable in the district are met.

(b) A parsonage in a detached or attached building located on the same lot as a church or other place of worship shall be considered a permitted accessory use and shall not be prohibited as more than one main building on the lot.

(c) In any multifamily residential or residential-office district, more than one two-family dwelling located on a lot or a two-family dwelling located on the same lot as a multifamily dwelling shall be considered a multifamily dwelling for purposes of applying district regulations and off-street parking requirements.

(Code 1993, § 32-620.2; Code 2004, § 114-620.2; Code 2015, § 30-620.2; Ord. No. 2010-18-30, § 5, 2-22-2010)

Sec. 30-620.3. Lot width variations.

Where lots of record existing at the effective date of the ordinance from which this chapter is derived are to be combined or divided to create not more than two new lots, and where the width of such lots cannot be increased by acquisition of additional abutting land by reason of applicable sections of this chapter or other chapters of this Code, the width of such lots may be reduced by not more than ten percent of the minimum lot width required in the district in which they are located.

(Code 1993, § 32-620.3; Code 2004, § 114-620.3; Code 2015, § 30-620.3)

Sec. 30-620.4. Lot area requirements for two-family dwellings.

Minimum lot area requirements set forth in this chapter for two-family dwellings shall not apply to the conversion of any lawful existing multifamily dwelling to a two-family dwelling.

(Code 1993, § 32-620.4; Code 2004, § 114-620.4; Code 2015, § 30-620.4)

Sec. 30-620.5. Division of lots to accommodate existing dwelling units.

A single lot of record, developed with two or more dwelling units existing on October 24, 2005, may be divided into two or more lots for purposes of establishing single-family detached, single-family attached, two-family or multifamily dwellings on individual lots, when the lots created by such division cannot meet applicable lot area, lot width, usable open space, lot coverage or yard requirements. Such division shall be permitted, provided that all of the following conditions are met:

(1) The property subject to the division shall be located in a district where the dwellings on the lots created by the division are permitted principal uses.

(2) All new lots shall comply with Section 30-610.1 regarding public street frontage and access to lots.

(3) The division shall result in at least one main building being located on each lot, and lot area, lot width and yards shall be allocated to the newly created lots on a basis reasonably proportional to the buildings and uses contained on each lot as determined by the Zoning Administrator.

(4) The off-street parking requirements set forth in Article VII of this chapter shall be met for each dwelling

unit, provided that any nonconforming parking feature existing at the time of the division may continue unless the Zoning Administrator determines that the resulting lot is capable of accommodating additional off-street parking.

(5) The division shall not result in the creation of any new vacant lot or additional dwelling units that would not have otherwise been permitted prior to the division.

(6) Applicable requirements of the Virginia Uniform Statewide Building Code shall be met.

(7) The division shall comply with the applicable requirements of Chapter 25 regarding the subdivision of land.

(Code 2004, § 114-620.5; Code 2015, § 30-620.5; Ord. No. 2005-248-236, § 1, 10-24-2005; Ord. No. 2012-74-84, § 2, 6-11-2012)

DIVISION 4. YARDS AND COURTS

Sec. 30-630.1. Required yards on lots having more than one street frontage.

(a) Except as provided in Section 30-620.1(c) and (d), on a corner lot in a zoning district where a front yard is required there shall be a front yard along at least one street frontage, and on a corner lot on which side yards are required there shall be a street side yard of not less than ten feet along all other street frontages, provided that:

(1) There shall be a front yard along any street frontage adjacent to or across an alley from a side lot line of another lot located in any district in which a front yard is required. The depth of such yard shall be not less than the minimum required depth of the front yard on the adjacent lot.

(2) There shall be a front yard along any street frontage opposite the architectural front of any dwelling use located on the lot.

(3) In the R-6, R-7, and R-8 districts, no street side yard shall be required for single- or two-family dwellings.

(b) Where only one front yard is required on a corner lot having frontage on two streets, a rear yard as required in the district shall be provided at the opposite end of the lot from the front yard. Where more than one front yard is required on a corner lot, yards other than those along street frontages shall be considered side yards, and no rear yard shall be required.

(c) On through lots, there shall be a front yard as required in the district along each street frontage, and a rear yard as required in the district shall be provided at the opposite end of the lot from the front yard.

(d) On through lots located in residential zoning districts with front yard maximums, the front yard maximum shall only be applicable to the principal street frontage.

(e) On a corner lot in an R-63, UB-2, B-4, B-5, B-6 or B-7 district, no street side yard shall be required. On such lot, yards other than those along street frontages shall be considered side yards, and no rear yard shall be required.

(Code 1993, § 32-630.1; Code 2004, § 114-630.1; Code 2015, § 30-630.1; Ord. No. 2005-50-45, § 1, 4-25-2005; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2006-197-217, § 4, 7-24-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2010-177-173, § 3, 10-11-2010; Ord. No. 2020-171, § 1(30-630.1), 9-28-2020)

Sec. 30-630.2. Exceptions to required front yards on lots where adjacent main buildings exist.

(a) Except in the R-8 district, a building or addition thereto erected within 100 feet of an existing main building adjacent on each side thereof shall have a front yard as required by the following:

(1) On any lot on which a front yard is required and where one or both adjacent buildings have a nonconforming front yard, a building or addition thereto erected on such lot shall have a front yard with a minimum depth of not less than the average depth of the front yards of the adjacent buildings.

(2) On any lot in an R or RO district where the adjacent buildings have front yards greater than or equal to that required by the district regulations, a building or addition thereto erected on such lot may project in front of an adjacent building not more than one foot for each four feet of distance between the newly erected building or addition and the adjacent building or may have a front yard with a minimum depth

of not less than the average depth of the front yards of the adjacent buildings, whichever is the least restrictive. This subsection shall not be construed to permit a front yard less than the minimum required by the district regulations or to require a front yard greater than 100 feet in depth.

(b) Except in the R-8 district, a building or addition thereto erected within 100 feet of an existing main building adjacent on only one side thereof shall have a front yard as required by the following:

(1) On any lot on which a front yard is required and where the adjacent building has a front yard which is nonconforming or equal to that required by the district regulations, a building or addition thereto erected on such lot shall have a front yard with minimum depth of not less than the depth of the front yard of the adjacent building.

(2) On any lot in an R or RO district where the adjacent building has a front yard greater than required by district regulations, a building or addition thereto erected on such lot may project in front of the adjacent building not more than one foot for each four feet of distance between the newly erected building or addition and the adjacent building. This subsection shall not be construed to permit a front yard less than the minimum required by the district regulations or to require a front yard greater than 100 feet in depth.

(Code 1993, § 32-630.2; Code 2004, § 114-630.2; Ord. No. 2010-18-30, § 5, 2-22-2010)

Sec. 30-630.3. Front yards adjacent to R and RO districts.

Where a block is located partly in an R or RO district and partly in a district in which no front yard is normally required, the minimum front yard on that part of the block within 100 feet of the R or RO district shall be the front yard required in the R or RO district or the existing front yard of the R or RO property adjacent to the district boundary, whichever is less.

(Code 1993, § 32-630.3; Code 2004, § 114-630.3; Code 2015, § 30-630.3)

Sec. 30-630.3:1. Reserved.

Editor's note—Ord. No. 2007-338-2008-11, adopted January 14, 2008, repealed § 114-630.3:1, which pertained to yards applicable to swimming pools and derived from Code 1993, § 32-630.3:1, and which was reordained as Code 2004, § 114-630.5 by Ord. No. 2007-338-2008-11, adopted January 14, 2008.

Sec. 30-630.4. Side yards for attached dwellings.

In the case of single-family and two-family attached dwellings, no side yard shall be required along a lot line in common to two attached dwellings where, for purposes of providing setback variations among attached dwelling units, one dwelling is offset forward of or to the rear of the dwelling to which it is attached, provided that such offset does not exceed five feet at the front of the dwellings or ten feet at the rear of the dwellings, and provided further that applicable requirements of the Virginia Uniform Statewide Building Code are met.

(Code 2004, § 114-630.4; Code 2015, § 30-630.4; Ord. No. 2007-338-2008-11, § 3, 1-14-2008; Ord. No. 2020-171, § 1(30-630.4), 9-28-2020)

Sec. 30-630.5. Yards applicable to swimming pools.

All yard requirements set forth in this chapter for accessory buildings or structures shall be applicable to in-ground and aboveground swimming pools.

(Code 2004, § 114-630.5; Code 2015, § 30-630.5; Ord. No. 2007-338-2008-11, § 3, 1-14-2008)

Secs. 30-630.6—30-630.8. Reserved.

Sec. 30-630.9. Permitted projections and encroachments in yards and courts.

(a) Sills, siding, belt courses, eaves, gutters, normal roof overhangs, chimneys, pilasters and similar architectural features may project into any required yard or court pursuant to this chapter. Bay windows elevated not less than 18 inches above the adjacent finished floor level may project not more than two feet into any required yard or court.

(b) Fences and walls not exceeding 6 1/2 feet in height may be located within any required side or rear yard or court. Fences and walls located within required front yards shall not exceed four feet in height, except that in the

R-1 district they may not exceed 6 1/2 feet. In the R-63 district, no fence or wall located within any front yard shall exceed four feet in height. An additional 1 1/2 feet of height shall be permitted for posts, columns and gates for fences and walls in all districts. For purposes of this section, the height of a fence or wall shall be measured from the ground level at the base of the fence or wall.

(c) Permitted signs and poles, posts and other customary yard ornaments and accessories may be located within any required yard or court.

(d) Open or enclosed fire escapes and outside stairways required by law may project into required yards a distance of not more than four feet. Ramps providing means of ingress or egress required by law may project into required yards when such ramps cannot be located elsewhere in compliance with applicable yard and ingress or egress requirements.

(e) Unenclosed porches, balconies and steps may project into required front yards a distance of not more than ten feet, except that in the R-8 district such projection shall not exceed five feet. The width of such projection shall not extend beyond the sidewalls of the portion of the main building to which it is attached or into an extension of the required side yards on the lot, whichever is greater.

(f) Except in the R-7 and R-8 districts, an enclosed vestibule containing not more than 40 square feet in area may project into a required front yard a distance of not more than four feet.

(g) Open balconies and uncovered porches may project into required side and rear yards and required courts a distance not to exceed 20 percent of the required width of such yard or court.

(h) Except in the R-7 and R-8 districts, an unenclosed covered porch that projects into a required yard may be enclosed, provided that such porch was existing on April 25, 2005, and is attached to a single-family detached dwelling, except that when such porch is located on the architectural front of the dwelling, such enclosure shall not project more than ten feet into a required front yard and shall not contain more than 100 square feet of floor area may be enclosed for purposes of providing a vestibule or sheltered means of ingress to and egress from a dwelling, provided that such enclosed porch shall not be designed, equipped or arranged for habitable living space.

(i) An unenclosed porch or deck attached to or abutting a dwelling use having a nonconforming side yard may project into the required side yard to an extent no greater than the abutting portion of the main building, provided that the depth of such porch or deck shall not exceed ten feet and provided, further, that such porch or deck shall not extend within six feet, as measured horizontally, of any window or door containing a window in a wall of a dwelling use on an adjacent lot.

(j) Handrails and guardrails, not exceeding 42 inches in height, provided for decks, porches, balconies and stairs shall be exempt from all yard requirements and related height and encroachment limitations imposed by this chapter. Decks and porches may be attached to permitted fences and walls.

(k) Building-mounted solar energy systems not exceeding 12 inches in height from the exterior of the surface of the roof may project into a required yard or court to an extent no greater than the existing roof structure.

(Code 1993, § 32-630.9; Code 2004, § 114-630.9; Code 2015, § 30-630.9; Ord. No. 2003-183-130, § 1, 5-27-2003; Ord. No. 2005-50-45, § 1, 4-25-2005; Ord. No. 2006-197-217, § 4, 7-24-2006; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2020-171, § 1(30-630.9), 9-28-2020)

DIVISION 5. PARKING AND STORAGE OF RECREATIONAL VEHICLES, COMMERCIAL VEHICLES AND MOBILE HOMES*

***Cross reference—**Traffic and vehicles, Ch. 27.

Sec. 30-640.1. Recreational vehicles.

No recreational vehicle shall be occupied for dwelling purposes except within an approved travel trailer park nor shall any recreational vehicle be parked or stored in a front yard or required side yard of any lot in an R or RO district.

(Code 1993, § 32-640.1; Code 2004, § 114-640.1; Code 2015, § 30-640.1)

Sec. 30-640.2. Personal and commercial vehicles and semitrailers.

No vehicle used for personal use that exceeds an empty weight of 6,500 pounds, semitrailer or commercial vehicle shall be parked or stored outside of a completely enclosed building on any lot in an R or RO district, except while loading or unloading. For the purposes of this section, a commercial vehicle is defined as a loaded or empty motor vehicle that exceeds an empty weight of 6,500 pounds, a trailer or a semitrailer, designed or regularly used for carrying freight, merchandise, or more than ten passengers, including buses, but not including vehicles used for vanpools. Empty weight shall be that which is identified as such for vehicle registration purposes by the State Department of Motor Vehicles. This section shall not apply to any loaded or empty motor vehicles designed or regularly used for carrying passengers, including buses, which are accessory to a public or private school; a place of worship; or a philanthropic, charitable or eleemosynary institution.

(Code 1993, § 32-640.2; Code 2004, § 114-640.2; Code 2015, § 30-640.2)

Sec. 30-640.3. Manufactured homes.

No manufactured home, whether occupied or unoccupied, shall be parked or stored on any lot except in an approved manufactured home park or manufactured home subdivision, provided that unoccupied manufactured homes may be offered for sale, stored, serviced, repaired or manufactured in business and industrial districts where such use of the premises is permitted by this chapter.

(Code 1993, § 32-640.3; Code 2004, § 114-640.3; Code 2015, § 30-640.3; Ord. No. 2004-180-167, § 1, 6-28-2004)

DIVISION 6. HEIGHT EXCEPTIONS

Sec. 30-650.1. Towers and appurtenances, roof parapets and architectural embellishments.

The height limitations set forth in this chapter shall not apply to chimneys, smokestacks, lightning rods, electric power line support structures, accessory antennas, steeples, cupolas, ornamental towers and spires, cooling towers, elevators, bulkheads and other necessary mechanical appurtenances, or to roof parapets and architectural embellishments not exceeding four feet in height. However, no sign, display or advertising device of any kind shall be erected to exceed the height limit in the district in which it is located nor shall such be painted on or attached to that portion of a chimney, smokestack, tower, roof parapet, architectural embellishment or other structure extending above the height limit prescribed for the district in which it is located. To the extent that any wireless communications facility, microwave relay facility, or radio and television broadcast antenna and support structure exceeds the height limitations of the district regulations, such additional height shall be permitted subject to compliance with the requirements of Division 11 of this article.

(Code 1993, § 32-650.1; Code 2004, § 114-650.1; Code 2015, § 30-650.1; Ord. No. 2006-331-2007-13, § 1, 1-8-2007)

Sec. 30-650.2. Public buildings.

The height of any public building may exceed the maximum height limit applicable in the zoning district in which such building is located, provided that required front, side and rear yards shall be increased in depth or width a minimum of one foot for each one foot of building height in excess of the height limit applicable in the district.

(Code 1993, § 32-650.2; Code 2004, § 114-650.2; Code 2015, § 30-650.2)

Sec. 30-650.3. Height limits applicable to parking decks and parking garages in certain districts.

For purposes of application of height limits to parking decks and parking garages located in districts where height regulations are stated in terms of number of stories, the following shall apply:

(1) Each covered parking level or tier shall be construed to be a story as defined in this chapter.

(2) In a case where parking is the principal use occupying the structure, the maximum permitted number of stories may exceed by one story the height limit applicable to buildings in the district.

(3) There shall be no required minimum or maximum story height, except as may be imposed by the Virginia Uniform Statewide Building Code.

(Code 2004, § 114-650.3; Code 2015, § 30-650.3; Ord. No. 2010-20-49, § 2, 3-8-2010)

DIVISION 7. SCREENING OF REFUSE AREAS

Sec. 30-660. Standards for enclosures or screening.

Outdoor areas accessory to any use, except single-family and two-family dwellings located on individual lots, and used for the deposit and collection of trash or refuse shall be enclosed or screened with opaque structural or vegetative materials in such a manner as not to be visible from adjacent properties in an R, RO, HO, I or OS district or from any public street or other public space. Such enclosure or screening shall be designed so as to prevent trash or refuse from blowing onto other areas of the site or onto adjacent property or public streets or spaces (see Section 30-630.9(b)).

(Code 1993, § 32-660; Code 2004, § 114-660; Code 2015, § 30-660)

Sec. 30-660.1. Standards for location of refuse areas.

Facilities for the deposit and collection of trash or refuse shall not be located within any front or street side yard.

(Ord. No. 2020-171, § 7(30-660.1), 9-28-2020)

DIVISION 8. OUTDOOR LIGHTING

Sec. 30-670. Location, direction or shielding.

Outdoor lighting, when provided as accessory to any use, shall be located, directed or shielded so as not to shine directly on adjoining properties or to create a traffic hazard by means of glare or similarity to or confusion with traffic signals, warning lights or lighting on emergency vehicles.

(Code 1993, § 32-670; Code 2004, § 114-670; Code 2015, § 30-670)

DIVISION 9. ACCESSORY BUILDINGS

Sec. 30-680.1. Location within required yards.

(a) In any zoning district except R-6, R-7 and R-8, a building accessory to a single-family or two-family dwelling and not exceeding 12 feet in height may be located within a required rear yard, but not within five feet of an alley, provided that where a rear yard abuts a side lot line of an adjoining lot, no such accessory building shall be located nearer such side lot line than a distance equal to the minimum side yard required on the adjoining lot.

(b) In R-6, R-7, R-8, R-48, R-53 and R-63 districts, a building accessory to a single-family or two-family dwelling and not exceeding 12 feet in height may be located within a required rear yard and/or the portion of a required side yard situated within 30 feet of the rear lot line.

(c) An accessory building not exceeding 12 feet in height may be located within a required side yard when attached to an accessory building on an adjacent lot by a common wall. Such accessory building shall be located not less than 15 feet behind that face of the main building which is nearest the street line.

(d) An accessory building or structure may only be located in a front yard if located 100 feet or greater from the nearest street line.

(Code 1993, § 32-680.1; Code 2004, § 114-680.1; Code 2015, § 30-680.1; Ord. No. 2006-197-217, § 4, 7-24-2006; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2020-171, § 1(30-680.1), 9-28-2020)

Sec. 30-680.2. Use for dwelling purposes.

No accessory building shall be used for dwelling purposes except as may be specifically authorized pursuant to this chapter.

(Code 1993, § 32-680.2; Code 2004, § 114-680.2; Code 2015, § 30-680.2)

Sec. 30-680.3. Erection and use.

No permanent accessory building shall be erected on a lot until the construction of the main building is commenced, and no permanent accessory building shall be used until the main building is completed and a certificate of occupancy for such building has been issued.

(Code 1993, § 32-680.3; Code 2004, § 114-680.3; Code 2015, § 30-680.3)

Sec. 30-680.4. Height and size limits.

In addition to height limits set forth elsewhere in this division, no building accessory to a single-family or two-family dwelling shall exceed 20 feet in height, nor shall the building area of all accessory buildings on any lot devoted to single-family or two-family dwelling use exceed the building area of the main building on the lot.

(Code 1993, § 32-680.4; Code 2004, § 114-680.4; Code 2015, § 30-680.4)

DIVISION 9.1. PORTABLE STORAGE UNITS

Sec. 30-682.1. Portable storage units.

Portable storage units as defined in Article XII of this chapter may be located on a lot in any district subject to the following conditions, provided that such conditions shall not be applicable in the M-2 district:

(1) For periods of up to and including 15 consecutive days, a portable storage unit may be located on a lot without issuance of a certificate of zoning compliance only if the owner or occupant of the lot notifies the Zoning Administrator in writing of the delivery of the unit to the lot no later than the day of delivery of the unit to the lot.

(2) For periods of greater than 15 consecutive days, a portable storage unit may be located on a lot only after issuance of a certificate of zoning compliance. A single certificate of zoning compliance may be approved for a portable storage unit to be located on one lot and subsequently moved to another lot in the City when the same owner or occupant owns or occupies both lots and the unit is for the use of such owner or occupant.

(3) Portable storage units shall be located on a lot no more than a total of 25 days in any consecutive 12-month period for the same owner or occupant of the lot, provided that portable storage units being used by the owner or occupant in conjunction with construction, repair or renovation activity taking place on the lot shall not be subject to the 25-day limit; however, such units shall be removed immediately upon completion of the construction, repair or renovation activity.

(4) No portable storage unit shall exceed 150 square feet in floor area, and no portable storage unit shall be greater than eight feet in height. More than one portable storage unit may be located on a lot at the same time, provided that the total floor area of all such units on the lot does not exceed 234 square feet.

(5) Portable storage units that are subject to approval of a certificate of zoning compliance shall not be located within any required yard, provided that upon approval of the Zoning Administrator, such portable storage units may be located in a required yard at a location approved by the Zoning Administrator when the Zoning Administrator determines that no viable alternative location is available on the lot.

(6) All portable storage units shall be in a condition free from rust, peeling paint and other visible forms of deterioration. Identification of the business owning a portable storage unit shall be permitted on such unit.

(7) Inoperable or converted vehicles or trailers shall not be used for storage purposes, except that trailers may be used for storage purposes in industrial districts when all applicable district regulations are met.

(Code 2004, § 114-682.1; Code 2015, § 30-682.1; Ord. No. 2010-209-216, § 1, 12-13-2010)

DIVISION 10. FLOOR AREA BONUSES

Sec. 30-690. Scope of division.

Floor area bonuses as specified in this division and subject to the conditions and limitations set forth in this division may be added to the basic permitted floor area for buildings or portions thereof devoted to nondwelling uses.

(Code 1993, § 32-690; Code 2004, § 114-690; Code 2015, § 30-690)

Sec. 30-690.1. Permitted bonuses.

Floor area bonuses shall be permitted for such development features, in such districts and to such extent as specified in the following table. Development features enabling floor area bonuses are more fully described in and limited by Section 30-690.2.

Feature for Which Bonus is Permitted		*Districts in Which Bonus is Applicable*	*Maximum Floor Bonus Permitted Per Feature*
(1)	Pedestrian plaza	RO-3, HO & B-4	10 square feet for each square foot of plaza area
(2)	Building setback	RO-3, HO & B-4	5 square feet for each square foot of qualifying area
(3)	Arcade or open walkway	RO-3, HO & B-4	5 square feet for each square foot of arcade or open walkway
(4)	Improved roof area	RO-3, HO & B-4	2 square feet for each square foot of improved roof area
(5)	Reduction in lot coverage	B-4	10 percent of basic permitted floor area for first 20 percent reduction in each building dimension; 2 percent of basic permitted floor area for each 5 percent reduction thereafter
(6)	Enclosed parking	B-4	100 square feet for each parking space
(7)	Dwelling use	B-4	1 square foot for each square foot of floor area devoted to dwelling use

(Code 1993, § 32-690.1; Code 2004, § 114-690.1; Code 2015, § 30-690.1)

Sec. 30-690.2. Bonus features defined.

For the purposes of this division, the features for which a floor area bonus is permitted, as enumerated in Section 30-690.1, shall be defined as follows:

(1) *Pedestrian plaza* means a plaza suitably improved for pedestrian use provided at ground level on the property and unobstructed from that level upward. Such plaza shall be accessible to the public and available for their use and shall abut a public pedestrian way or shall be connected directly therewith by an entrance of not less than ten feet in width. Each overall horizontal dimension of such plaza shall be not less than 20 feet. Not more than two-thirds of the area of such plaza may be devoted to planting areas, fountains and other features not generally accessible to pedestrians.

(2) *Building setback* means the building setback, including sidewalk widening, a plaza, a landscaped area or an arcade provided at ground level on the property in addition to minimum required yards. Such area shall be provided adjacent to public streets and shall run not less than two-thirds the length of the building wall which it adjoins. Such area shall not be used for the parking or circulation of motor vehicles.

(3) *Arcade or open walkway* means an arcade or improved open walkway with a minimum width of 15 feet and a minimum unobstructed height of ten feet running completely through a building or complex of buildings and providing a direct connection between public streets or pedestrian plazas and functioning as a logical pedestrian route from one street frontage or public pedestrian area to a major destination point such as a shopping area, parking garage or plaza. Such arcades or open walkways shall be accessible to the public during the business hours of the day and shall be readily identifiable from adjoining public sidewalks or plazas.

(4) *Improved roof area* means a portion of the roof of a building open to the sky or enclosed on its sides, which area shall be accessible to the occupants of the building and suitably improved for their leisure time use. Such area may be developed for recreational purposes, roof gardens, sitting areas or outdoor restaurant facilities and shall be not less than 20 feet in each overall horizontal dimension.

(5) *Reduction in lot coverage* means a reduction in the portion of a lot covered by buildings above a height of 35 feet, provided that the overall width or depth of a building is reduced by not less than 20 percent

of the corresponding lot dimension. Such reduction in building dimensions shall be in addition to applicable yard requirements.

(6) *Enclosed parking* means parking spaces provided within a main building and exclusively serving the occupants of such building.

(7) *Dwelling use* means total floor area devoted to dwelling or lodging units which are not available for occupancy for periods of less than one week, when such area is located within a main building and above the first story of such building. Floor area eligible for such bonus shall be subject to the exclusions set forth in the definition of the term "floor area" in Section 30-1220.

(Code 1993, § 32-690.2; Code 2004, § 114-690.2; Code 2015, § 30-690.2)

Cross reference—Definitions generally, § 1-2.

Sec. 30-690.3. Determination of bonuses.

(a) For the purpose of determining applicable floor area bonuses, the development features specified in this division shall be mutually exclusive, in that no space credited for one type of bonus shall be used as the basis for another.

(b) Usable open space, building setbacks, improved roof areas and other features necessary to meet requirements applicable to floor area for dwelling use contained within a building shall not be used in the determination of floor area bonuses for other uses.

(Code 1993, § 32-690.3; Code 2004, § 114-690.3; Code 2015, § 30-690.3)

DIVISION 10.1. AFFORDABLE DWELLING UNITS*

***Cross reference—**Affordable housing administrative provisions, § 16-19 et seq.

Sec. 30-691. Intent statement.

Pursuant to the general purposes of this chapter and the provisions of Code of Virginia, § 15.2-2305, and in furtherance of the purpose of providing affordable shelter for all residents of the City, the intent of this division is to provide for a voluntary affordable housing dwelling unit program that addresses housing needs, promotes a full range of housing choices, and encourages the construction and continued existence of housing affordable to low and moderate income citizens by providing for increases in density and other incentives to the applicant in exchange for the applicant providing such affordable housing. The provisions of this division are intended to be applied in accordance with affordable dwelling unit program administrative provisions adopted by the City Council.

(Code 2004, § 114-691; Code 2015, § 30-691; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.1. Applicability.

(a) *Generally.* Subject to the limitations and provisions set forth in Section 30-691.2, the provisions of this division shall be applicable to any site or portion thereof developed or to be developed for purposes of dwelling units as defined in Article XII of this chapter. For purposes of these provisions, a site may include a single lot, a combination of contiguous lots, or a combination of lots that are contiguous except for intervening streets or alleys, when such combination of lots is to be developed under the same ownership and/or control pursuant to an overall development plan.

(b) *Program is voluntary.* Participation in the affordable dwelling unit program shall be at the sole discretion of the applicant, and an applicant's decision not to apply under the program shall not affect the applicant's ability to obtain density increases pursuant to other applicable provisions of this Code.

(c) *Qualifying affordable dwelling units.* For purposes of this division, affordable housing is affordable dwelling units that qualify for application of the density bonus features set forth in this division and shall be dwelling units that are affordable for purchase by households whose income is no more than 80 percent of the area median income in the Richmond-Petersburg Metropolitan Statistical Area and affordable for rental by households whose income is no more than 60 percent of the area median income in the Richmond-Petersburg Metropolitan Statistical Area, except as such percentages of the area median income may be adjusted with the approval of the City Council for purposes of avoiding potential economic loss by the owner or applicant as provided in Chapter 16, Article II.

(d) *Dwelling units to be developed under current zoning.* If a site is proposed to be developed pursuant to the current zoning classification of the site, and no rezoning, special use permit or community unit plan is proposed to change the type or density of dwelling units or the lot sizes permitted to be developed on the site, the current zoning district regulations shall be used as the basis upon which the eligible density bonus features and number of qualifying affordable dwelling units are applied.

(e) *Dwelling units to be developed pursuant to rezoning.* In the case of a site that is proposed to be developed subject to approval of a change in the zoning classification of the site, the zoning district regulations resulting after such change in the zoning classification shall be used as the basis upon which the eligible density bonus features and qualifying number of affordable dwelling units are applied.

(f) *Dwelling units to be developed pursuant to special use or community unit plan.* Nothing contained in this division shall be construed to prohibit an applicant from voluntarily providing affordable dwelling units as part of a special use permit or community unit plan application.

(Code 2004, § 114-691.1; Code 2015, § 30-691.1; Ord. No. 2007-187-203, § 1, 9-10-2007; Ord. No. 2008-40-60, § 1, 3-24-2008)

Sec. 30-691.2. Density bonus features and qualifying affordable dwelling units.

The following modifications to applicable zoning district requirements shall be known as density bonus features, and shall be permitted as means to enable increased density of development when affordable dwelling units are provided on a site. In a case where a density bonus feature to be applied to a site is less than the maximum percentage authorized by this section, the percentage of affordable dwelling units or the percentage of floor area devoted to affordable dwelling units necessary to qualify for such bonus feature shall be reduced proportionately, as rounded to the nearest whole percentage.

(1) *Sites located in R, RO and HO districts.*

a. *Single-family detached dwellings.* The minimum required lot area, lot width and side yard width applicable to single-family detached dwellings shall be reduced by up to 20 percent, provided that not less than 11 percent of the total number of single-family detached dwellings developed on the site, including the optional density increase, are affordable dwelling units, and provided further that in no case shall the lot area be less than 3,000 square feet, nor shall the lot width be less than 25 feet, nor shall any side yard be less than three feet in width.

b. *Single-family attached dwellings.* In districts where maximum permitted average density is applicable to single-family attached dwellings, such density shall be increased by up to 20 percent, provided that not less than 11 percent of the total number of single-family attached dwellings developed on the site, including the optional density increase, are affordable dwelling units.

c. *Two-family detached dwellings.* The minimum required lot area, lot width and side yard width applicable to two-family detached dwellings shall be reduced by up to 20 percent, provided that not less than 11 percent of the total number of two-family detached dwellings developed on the site, including the optional density increase, are affordable dwelling units, and provided further that in no case shall the lot area be less than 3,600 square feet, nor shall the lot width be less than 27 feet, nor shall any side yard be less than three feet in width.

d. *Two-family attached dwellings.* The minimum required lot area and lot width applicable to two-family attached dwellings shall be reduced by up to 20 percent, provided that not less than 11 percent of the total number of two-family attached dwellings developed on the site, including the optional density increase, are affordable dwelling units, and provided further that in no case shall the lot area be less than 2,600 square feet, nor shall the lot width be less than 23 feet.

e. *Multifamily dwelling lot area.* In districts where a minimum required lot area per dwelling unit is applicable to multifamily dwellings, the following shall apply:

1. Where 23 or fewer multifamily dwelling units are permitted on a site before application of any density bonus feature, the permitted number of such units shall be increased by up to 15 percent, provided that not less than nine percent of the total number of multifamily dwelling

units developed on the site, including the optional density increase, are affordable dwelling units.

2. Where 24 or more multifamily dwelling units are permitted on a site before application of any density bonus feature, the permitted number of such units shall be increased by up to ten percent, provided that not less than six percent of the total number of multifamily dwelling units developed on the site, including the optional density increase, are affordable dwelling units.

f. *Multifamily dwelling floor area ratio.* In districts where a maximum floor area ratio is applicable to multifamily dwellings, the permitted floor area shall be increased by up to ten percent, provided that not less than six percent of the total multifamily floor area developed on the site, including the optional floor area increase, is devoted to affordable dwelling units.

(2) *Sites located in UB and B-1 districts; dwelling use floor area.* The maximum permitted floor area devoted to dwelling use shall be increased by up to 20 percent, provided that not less than 11 percent of the total dwelling use floor area, including the optional floor area increase, is devoted to affordable dwelling units.

(3) *Sites located in B-2 and B-3 districts.*

a. *Dwelling use floor area.* The maximum permitted floor area devoted to dwelling use shall be increased by up to 20 percent, provided that not less than 11 percent of the total dwelling use floor area, including the optional floor area increase, is devoted to affordable dwelling units.

b. *Building height.* The maximum permitted building height shall be increased by 12 feet when at least ten percent of the floor area permitted for dwelling use in the building is devoted to affordable dwelling units.

(4) *Sites located in the B-4 district; dwelling use floor area.* The maximum permitted floor area applicable to dwelling use shall be increased by up to ten percent, provided that not less than six percent of the total dwelling use floor area, including the optional floor area increase, is devoted to affordable dwelling units.

(Code 2004, § 114-691.2; Code 2015, § 30-691.2; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.3. Calculation of numbers of dwelling units.

In the case of density bonus features for an increase in average density of single-family attached dwellings on a site or an increase in the number of multifamily dwelling units on a site, the following rules shall apply in the calculation of numbers of dwelling units:

(1) *Number of dwelling units permitted before application of bonus feature.* When calculation of the number of dwelling units permitted on a site before application of the density bonus feature results in a fractional number, the permitted number of dwelling units shall be the lower whole number.

(2) *Number of additional dwelling units or affordable dwelling units.* When calculation of the number of additional dwelling units resulting from application of the density bonus feature results in a fractional number, or when calculation of the number of affordable dwelling units necessary to qualify for such bonus feature results in a fractional number, the number of additional dwelling units or number of affordable dwelling units shall be the nearest whole number.

(Code 2004, § 114-691.3; Code 2015, § 30-691.3; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.4. Distribution and physical compatibility of affordable dwelling units.

Affordable dwelling units intended to qualify for density bonus features shall comply with the following criteria. For purposes of this section, dwelling unit type shall be construed to mean any of the dwelling uses defined in Article XII of this chapter that are permitted on the site, and including the number of bedrooms contained therein.

(1) *Distribution.* Affordable dwelling units of the given dwelling unit type shall be located on a site so as to be interspersed among the market rate dwelling units of the same dwelling unit type on the site, and shall not be concentrated together or otherwise separated from market rate dwelling units.

(2) *Physical compatibility.* The exterior appearance of affordable dwelling units shall be similar to and

compatible with the typical exterior appearance of market rate units of the same dwelling unit type on the site by provision of similar architectural style and similar exterior building materials, finishes and quality of construction, except as may be adjusted with the approval of the City Council's designee for purposes of avoiding potential economic loss by the owner or applicant as provided in Chapter 16, Article II.

(3) *Dwelling unit types and sizes.* The number of market rate dwelling units of a given dwelling unit type on the site shall be not less than the number of affordable dwelling units of the same dwelling unit type. The floor area of affordable dwelling units shall comprise not less than 80 percent of the typical floor area of market rate dwelling units of the same dwelling unit type, provided that no affordable dwelling unit bedroom shall contain less than 100 square feet of floor area.

(Code 2004, § 114-691.4; Code 2015, § 30-691.4; Ord. No. 2007-187-203, § 1, 9-10-2007; Ord. No. 2008-40-60, § 1, 3-24-2008)

Sec. 30-691.5. Phasing of development.

On any site where dwelling units are to be developed in phases, affordable dwelling units intended to qualify for density bonus features shall be developed in accordance with the following provisions:

(1) *Phasing plan.* A phasing plan describing the phasing of construction of affordable dwelling units and market rate dwelling units shall be submitted with the plan of development.

(2) *Certificates of use and occupancy.* Certificates of use and occupancy shall not be approved for more than 50 percent of the market rate dwelling units constructed on the site until certificates of use and occupancy are approved for at least 50 percent of the affordable dwelling units constructed on the site. Certificates of use and occupancy shall not be approved for more than 80 percent of the market rate dwelling units constructed on the site until certificates of use and occupancy are approved for 100 percent of the affordable dwelling units constructed on the site.

(Code 2004, § 114-691.5; Code 2015, § 30-691.5; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.6. Other incentives.

(a) *Fee reduction.* Applicants participating in the affordable dwelling unit program shall be eligible for a reduction of those development fees specified in this chapter that are otherwise applicable, to the extent that such fees shall be reduced by a percentage amount equal to the percentage of affordable dwelling units provided.

(b) *Expedited consideration.* Applications proposing the development of affordable dwelling units pursuant to this program shall be given expedited consideration relative to other applications proposing residential development.

(Code 2004, § 114-691.6; Code 2015, § 30-691.6; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.7. Plan of development.

(a) *Plan of development required.* In addition to plan of development requirements that may otherwise be applicable in the district in which the site is located, a plan of development shall be required as set forth in Article X of this chapter for all affordable dwelling units intended to qualify for density bonus features authorized by this division.

(b) *Indication of affordable dwelling units on plans.* All affordable dwelling units intended to qualify for density bonus features authorized by this division shall be indicated on plans accompanying the plan of development, together with such additional information as necessary to determine compliance with the provisions of this division.

(c) *Approval of plan of development.* No plan of development for a site that includes any of the density bonus features authorized by this division shall be approved by the Director of Planning and Development Review until the affordable dwelling unit program Administrator has provided written certification to the Director that the program criteria necessary to qualify for such density bonus features are met.

(Code 2004, § 114-691.7; Code 2015, § 30-691.7; Ord. No. 2007-187-203, § 1, 9-10-2007; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-691.8. Certification of affordable dwelling unit program applicability.

In order for any of the density bonus features authorized by this division to be applicable to a site, the requirements of the affordable dwelling unit program administrative provisions established by the City Council shall be met. The Zoning Administrator shall not approve any application for a building permit, certificate of use and occupancy or certificate of zoning compliance that includes any of the density bonus features authorized by this division until the affordable dwelling unit program administrator has provided written certification to the Zoning Administrator that the program criteria necessary to qualify for such density bonus features are met.

(Code 2004, § 114-691.8; Code 2015, § 30-691.8; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.9. Processing timeframe.

The City shall have no more than 280 days in which to process site or subdivision plans proposing the development or construction of affordable dwelling units under the affordable dwelling unit program. The calculation of such periods of review shall include only the time that plans are in review, and shall not include such time as may be required for revision or modification in order to comply with lawful requirements set forth in applicable ordinances and regulations.

(Code 2004, § 114-691.9; Code 2015, § 30-691.9; Ord. No. 2007-187-203, § 1, 9-10-2007)

Sec. 30-691.10. Reserved.

Editor's note—Ord. No. 2008-40-60, adopted March 24, 2008, repealed Code 2004, § 114-691.10, which pertained to contribution in lieu of providing affordable dwelling units and derived from Ord. No. 2007-187-203, § 1.

Sec. 30-691.11. Administration of affordable dwelling unit program.

The City's affordable dwelling unit program shall be administered in accordance with the provisions of the affordable dwelling unit program administrative provisions adopted by the City Council.

(Code 2004, § 114-691.11; Code 2015, § 30-691.11; Ord. No. 2007-187-203, § 1, 9-10-2007)

DIVISION 11. WIRELESS TELECOMMUNICATIONS FACILITIES, MICROWAVE RELAY STATIONS, AND RADIO AND TELEVISION BROADCAST ANTENNAS

Sec. 30-692. Purpose of division.

This division is for the purpose of setting forth requirements for the location and design of wireless communications facilities, microwave relay facilities, and radio and television broadcast antennas.

(Code 1993, § 32-692; Code 2004, § 114-692; Code 2015, § 30-692; Ord. No. 2017-106, § 1, 6-26-2017)

Sec. 30-692.1. Intent statement.

The growth of commercial wireless communications has resulted in a need for additional antenna sites, with such need marked by not only the number of facilities required, but also the geographic distribution. Other technological changes in the traditional radio and television broadcast industry and in the use of microwave voice and data transmission are resulting in similar increased demand for antenna sites. These services of the utilities and communications sector have merit and value for the community and region as a whole, but can also result in facilities which are in conflict with the existing or planned character of the surrounding area. It is the intent of the City to create an expanded range of opportunities to accommodate continued growth of the services, while guiding the design of the facilities in a manner that takes into account the existing or planned character around a proposed site. These opportunities include the establishment of facilities through installation on existing buildings (alternative support structures), the establishment of new facilities through the construction of new monopoles, flexibility for the use of properties which may be nonconforming or may already be subject to special use permits or community unit plans, and greater flexibility for the development of facilities on City property where larger sites or existing nonresidential uses may result in a less intrusive installation when compared to other nearby properties.

(Code 1993, § 32-692.1; Code 2004, § 114-692.1; Code 2015, § 30-692.1; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-692.1:1. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them

in this section, except where the context clearly indicates a different meaning:

Administrative review-eligible project means a project that provides for:

(1) The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than ten feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within that existing line of utility poles; (ii) not located within the boundaries of a local, State or Federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

(2) The co-location on any alternative support structure of a wireless facility that is not a small cell facility.

Alternative support structure means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to the City of an agreement with the owner of the structure to co-locate equipment on that structure. The term "alternative support structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

Base station means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

Co-locate means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, alternative support structure, utility pole, or wireless support structure. The term "co-location" has a corresponding meaning.

Director means the Director of Planning and Development Review or the designee thereof.

Micro-wireless facility means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

New structure means a freestanding wireless support structure, as opposed to a co-located wireless facility, that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

Project means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any alternative support structure of a wireless facility that is not a small cell facility. The term "project" does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an alternative support structure to which the provisions of Section 30-692.7 apply.

Small cell facility means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Small cell facility co-location permit means a permit authorizing a wireless service provider or wireless infrastructure provider to co-locate a small cell facility on an alternative support structure.

Standard process project means any project other than an administrative review-eligible project.

Utility pole means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

Water tower means a water storage tank, a standpipe, or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, such as microwave relay facilities, regardless of technological configuration.

Wireless infrastructure provider means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

Wireless services means (i) "personal wireless services" as defined in 47 USC 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 USC 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 USC 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

Wireless services provider means a provider of wireless services.

Wireless support structure means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable alternative support structure or other structure designed to support or capable of supporting wireless facilities. The term "wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

(Code 2015, § 30-692.1:1; Ord. No. 2018-157, § 2, 6-25-2018)

Sec. 30-692.1:2. Applications for the installation or construction of projects.

(a) All applications to install or construct projects in the City shall be submitted to the Director in the form of a plan of development, all documentation required in Section 30-692.2, and any other documentation the Director may require. Applicants shall pay all applicable fees as set forth in this Code.

(b) Applicants for standard process projects whose proposed projects do not meet applicable criteria of this division may either modify their proposed projects to comply with this division or seek initial approval for their projects by separate application for a special use permit, variance, or other available means of zoning approval. Applicants shall pay all applicable fees as set forth in this Code. Notwithstanding anything to the contrary in this chapter, applicants desiring to install or construct administrative review-eligible projects shall not be required to obtain a special exception, special use permit, or variance.

(c) The City shall notify the applicable project applicant by email within ten business days after receiving an incomplete application for any purpose described in subsection (a) or (b) of this section. Such notice shall specify any additional information required to complete the application. Failure by the City to so provide this notice will render the application complete.

(d) Unless the City and applicant mutually agree to extend the application review period, the City shall approve or disapprove a complete application for any purpose described in subsection (a) or (b) of this section within the following periods of time:

(1) For a new structure, within the lesser of 150 days of receipt of the completed application or the period required by Federal law for such approval or disapproval;

(2) For the co-location of any wireless facility that is not a small cell facility, within the lesser of 90 days of receipt of the completed application or the period required by Federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 USC 1455(a).

Failure by the City to approve any such complete applications within the applicable periods above shall render such applications approved.

(e) Following disapproval by the City of any application described in subsection (a) or (b) of this section, the City shall provide the applicant with a written statement of the reasons for such disapproval. If the City is aware of any modifications to the project described in the application that if made would permit the City to approve the project, the City will identify them in such written statement. Subsequent disapproval by the City of a project application incorporating such identified modifications may be used by the applicant as evidence in any appeal asserting the City's disapproval was arbitrary and capricious.

(f) Disapproval by the City of any application described in subsections (a) and (b) of this section shall (i) not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services, and (ii) be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

(g) Applications described in Section 30-692.4 shall be subject to subsections (c) through (f) of this section.

(Code 2015, § 30-692.1:2; Ord. No. 2018-157, § 2, 6-25-2018)

Sec. 30-692.2. Standards applicable to all wireless facility projects.

(a) In addition to meeting minimum submission requirements for any application materials the Director may require, requests for approval for wireless facility projects shall include the following:

(1) The applicant's narrative containing the following information:

a. The address and latitude/longitude of the proposed location;

b. A description of communications/broadcast services which the applicant intends to provide at the site;

c. The methodology behind the site selection (i.e., describe alternative sites considered in the site selection process and why the proposed site is the most suitable);

d. A description of any other regulatory review required for the site and the status of that review (Federal Communications Commission, Federal Aviation Administration, NEPA impact report);

e. The measures that will be taken to ensure compatibility with surrounding properties;

f. A statement acknowledging removal of antennas upon termination of the use;

g. A statement indicating compliance with NIER standards;

h. A noninterference statement;

i. A statement indicating the feasibility of co-location of other users at the site; and

j. A statement indicating whether the site will be shared with the City if needed for public safety purposes.

(2) A map showing the location of the proposed site and the location of existing facilities operated or owned by the applicant within the City and within three miles of the corporate limits, with an accompanying description of each facility (address, latitude/longitude, height of support structure, mounting height of antenna array, and willingness to allow and feasibility of co-location of other users at site).

(3) Plans required for applications shall also clearly depict the following:

a. The location of the facility within the overall property, the access point from a public street, the location of other structures within 100 feet.

b. A detailed layout plan consisting of a site plan, roof plan, floor plan, as applicable to the specific proposal.

c. Detailed elevation drawings showing the location and type of antenna array, the structural element to which the array will be affixed, and for mounts using alternative support structures, any architectural device used to incorporate the array into building/structure design, the location and materials of any security fencing where required.

d. The location and details of lighting when required.

e. The location, type of equipment, noise suppression measures and operational procedure for any emergency power supply.

f. The color of antennas, cables, support structure.

g. Landscape plans-minimum evergreen hedge for the base of the support structure and ground-mounted equipment, with additional trees for support structure screening.

(b) There shall be no signage identifying the site except for a single nameplate not exceeding four square feet in sign area.

(c) Any wireless facility, wireless support structure, and other equipment supporting the wireless facility which has not been used for the purpose of radio transmission or wireless communication for a continuous period of 12 months shall be deemed to be abandoned and shall be removed from the premises within 90 days of such abandonment.

(Code 1993, § 32-692.2; Code 2004, § 114-692.2; Code 2015, § 30-692.2; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-692.3. Permitted use of alternative support structures.

Use of alternative support structures for the uses described in this division shall be permitted on nonconforming properties and properties which are already subject to special use permits, institutional master plans or community unit plans. Such installations shall be deemed to be a permitted alteration of a nonconforming property and shall be deemed in substantial conformance with the special use permit, institutional master plan or community unit plan, provided the installation is in conformance with the review criteria set forth in Section 30-692.4(b), as determined by plan of development review, if required, in accordance with Article X of this chapter for nonconforming properties and properties subject to special use permits or institutional master plans, and by final plan review, if required, in accordance with Article IV, Division 30 of this chapter for properties subject to community unit plans.

(Code 1993, § 32-692.3; Code 2004, § 114-692.3; Code 2015, § 30-692.3; Ord. No. 2015-80-74, § 1, 5-11-2015; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-692.4. Review criteria for installations utilizing alternative support structures.

(a) The authorization in this chapter for use of alternative support structures provides a less obtrusive alternative to the traditional monopole and tower-based facilities by accommodating installations that are a companion and subordinate use in conjunction with a permitted principal or accessory use of a property. Such installations may include, but not be limited to, rooftop installations; installations on the face of buildings and on the exterior of otherwise permitted rooftop mechanical enclosures; installations on otherwise permitted water towers serving municipal, business or industrial uses; and installations within otherwise permitted ornamental towers and steeples.

(b) The following standards shall be applicable to all installations on alternative support structures:

(1) The maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed 25 feet, except for whip antennas which may result in a combined projection of up to 35 feet, and the hardware on which antennas are mounted shall not project above the alternative support structure by more than 20 feet.

(2) Notwithstanding the provisions of Section 30-692.2(a), applicants for projects meeting the following criteria shall be required to apply for and obtain a certificate of zoning compliance and shall not be required to obtain a plan of development or final community unit plan approval:

a. The maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed ten feet; provided, however, if the installation is visible from the principal street frontage, then the maximum combined projection (antenna and mounting hardware) above the alternative support structure shall not exceed five feet in height.

b. The maximum dimensions of the antenna shall not exceed two feet by two feet by two feet or an alternative design not to exceed three cubic feet.

c. The maximum dimensions of any new mechanical enclosures or cabinets located on a support structure where they would be visible shall not exceed five feet by two feet by two feet.

d. Any portion of the installation that is visible from the principal street frontage shall be designed and colored to appear as an element of the alternative support structure, including the use of antennas, cables and equipment that are painted or tinted to match the surface of the alternative support structure to which they are affixed.

(Code 1993, § 32-692.4; Code 2004, § 114-692.4; Code 2015, § 30-692.4; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2015-80-74, § 1, 5-11-2015; Ord. No. 2017-150, § 4, 9-25-2017; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-692.5. Review criteria for installations utilizing new structures and for installations on existing structures.

(a) In addition to the information to be contained in the narrative required by Section 30-692.2, an application for a new structure shall thoroughly document the reasons the proposed wireless facilities to be placed thereon could not be accommodated on nearby existing structures or be co-located with other users on nearby existing monopoles or towers and that the new structure is the only feasible option.

(b) All new structures shall be limited to monopole designs only, and shall be subject to the following locational standards:

(1) There shall be a setback of 500 feet from any property within an R or RO zoning district and a setback of 1,000 feet from the shoreline of the James River. In no case shall a setback exceed the largest setback imposed by this chapter on other types of similar structures of a similar size, including utility poles.

(2) The maximum height of any monopole and antenna array shall be 199 feet, except that for any monopole and antenna array proposed within 1,000 feet of the right-of-way of an interstate highway, the height shall not exceed 155 feet.

(c) The antenna array shall be designed to present the least horizontal dimension possible. Where the proposed array is not designed either as a tubular antenna array (unicell) or as cluster-mounted array (panel antennas affixed directly to the side of the monopole), in addition to the information to be contained in the narrative required by Section 30-692.2, a statement shall be provided as to why those types of hardware are not technically feasible.

(d) The support structure and antenna array shall be of a color that is of neutral tone, selected to blend with the natural background (e.g., gray, light blue or silver if in open ground; green if among trees).

(e) There shall be no lighting of the support structure or antenna array unless required by the City or State or Federal agency.

(f) Dish antennas as part of a microwave relay facility shall not exceed ten feet in diameter.

(g) When microwave dish antennas are accessory to a wireless facility and are to be mounted on the monopole, such dishes shall not exceed six feet in diameter and shall not be mounted so as to extend more than six feet from the monopole.

(Code 1993, § 32-692.5; Code 2004, § 114-692.5; Code 2015, § 30-692.5; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-692.6. Criteria for installations of public wireless facilities and support structures.

The installation of any public wireless facility and wireless support structures shall not be subject to the requirements of Sections 30-692.2 through 30-692.5, but shall instead be subject to location, character and extent approval by the Planning Commission in accordance with the requirements of Section 17.07 of the Charter.

(Code 1993, § 32-692.6; Code 2004, § 114-692.6; Code 2015, § 30-692.6; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-692.7. Installation of small cell facilities on alternative support structures.

(a) Notwithstanding anything to the contrary in this chapter, the co-location of small cell facilities by a wireless services provider or wireless infrastructure provider on an alternative support structure, all as defined in this section, shall be permitted subject to the provisions of this section, provided that the wireless services provider or wireless infrastructure provider has permission from the owner of the alternative support structure to co-locate

equipment on that alternative support structure and so notifies the Director of Planning and Development Review or the designee thereof.

(b) No small cell facility shall be co-located on any alternative support structure and no building permit authorizing the co-location of any small cell facility on any alternative support structure shall be issued until the wireless service provider or wireless infrastructure provider obtains a small cell facility co-location permit for the co-location of such small cell facility.

(c) Applications for small cell facility co-location permits shall be submitted to the Director of Planning and Development Review or the designee thereof and may include up to 35 permit requests on a single application. A permit fee and processing fee shall accompany each application. For each small cell facility up to five small cell facilities on a single permit application the fee shall be $100.00, and for each additional small cell facility over five small cell facilities on a single permit application the fee shall be $50.00. Applications shall include the following information for each permit requested. Any application not containing all of the following information may be deemed incomplete by the Director of Planning and Development Review or the designee thereof.

(1) The applicant's name and status as a wireless service provider or wireless infrastructure provider and a valid electronic mail address at which the applicant may be contacted;

(2) The address and latitude/longitude of the alternative support structure on which the small cell facility will be co-located;

(3) The owner of the alternative support structure and an agreement or other evidence showing the owner has granted permission to the applicant to co-locate on the alternative support structure, which evidence may include the owner's signature on the application;

(4) A description of any other regulatory review required for the site and the status of that review (e.g., Federal Communications Commission, Federal Aviation Administration, NEPA impact report);

(5) A statement that the small cell facility and operation thereof will not materially interfere with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities; and

(6) Plans clearly depicting the following:

a. The dimensions and specifications of the small cell facility, including the antennas, base station, and all other associated wireless equipment;

b. A detailed layout plan consisting of a site plan, roof plan, floor plan, as applicable to the alternative support structure;

c. Detailed elevation drawings showing the co-location of the small cell facility, including the base station and all other associated equipment, on the alternative support structure; and

d. In the case of an installation on publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, such plans and elevation drawings shall include:

1. The color of the alternative support structure and the small cell facility, the base station and all other associated equipment;

2. The location and details of lighting, when applicable; and

3. Landscape plans for the base of the alternative support structure and ground mounted equipment.

(d) Within ten days after receipt of an application and a valid electronic mail address for the applicant, the Director of Planning and Development Review or the designee thereof shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Within 60 days of receipt of a complete application, the Director of Planning and Development Review or the designee thereof shall either approve the application, disapprove the application, or extend the period for an additional 30 days by providing written notice of such extension to the applicant. Any disapproval of the

application shall be in writing and accompanied by an explanation for the disapproval. The application shall be deemed approved if the Director of Planning and Development Review or the designee thereof does not disapprove the application within 60 days of receipt of the complete application unless within such 60 days the Director of Planning and Development Review or the designee thereof extended the period for an additional 30 days pursuant to this section, in which case the application shall be deemed approved if the Director of Planning and Development Review or the designee thereof does not disapprove the application within 90 days of receipt of the completed application.

(e) Provided the applicant is in compliance with all provisions of this section, the Director of Planning and Development Review or the designee thereof shall not unreasonably condition, withhold, or delay the issuance of a small cell facility co-location permit and may only disapprove a small cell facility co-location permit for the following reasons:

(1) Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

(2) The public safety or other critical public service needs;

(3) Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

(4) If the alternative support structure upon which the small cell facility would be co-located is within an old and historic district as set forth in Article IX, Division 4 of this chapter and no certificate of appropriateness authorizing the small cell facility has been issued as required by Article IX, Division 4 of this chapter.

(f) Nothing shall prohibit an applicant from voluntarily submitting, and the Director of Planning and Development Review or the designee thereof from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

(g) Any wireless support structure or wireless facility permitted pursuant to this section and which has not been used for wireless services for a continuous period of 12 months shall be deemed to be abandoned and shall be removed from the premises within 90 days of such abandonment.

(h) Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from the permitting requirements and fees set forth herein.

(Code 2015, § 30-692.7; Ord. No. 2017-106, §§ 2, 3, 6-26-2017; Ord. No. 2018-157, § 1, 6-25-2018)

DIVISION 11.1. TEMPORARY EVENTS

Sec. 30-693. Temporary events exempt from the provisions of this chapter.

A temporary event as defined in Section 30-1220 shall be exempt from the provisions of this chapter and shall not require a certificate of zoning compliance.

(Code 2004, § 114-693; Code 2015, § 30-693; Ord. No. 2012-234-2013-2, § 2, 1-14-2013)

Secs. 30-693.1—30-693.9. Reserved.

DIVISION 12. HOME OCCUPATIONS

Sec. 30-694. Intent.

The intent of the provisions of this division is to recognize the need for some citizens of the City to use a portion of their residence for the purposes of a home occupation as defined in Article XII of this chapter, and to recognize the public benefits of increased economic activity and reduction of commuter traffic resulting from home occupations, while protecting the integrity of residential areas by permitting limited business activity within a

residence or its accessory building only to an extent that it does not adversely affect the appearance, character or condition of the residence or the surrounding neighborhood.

(Code 2004, § 114-694; Code 2015, § 30-694; Ord. No. 2005-339-2006-10, § 2, 1-9-2006)

Sec. 30-694.1. Home occupation regulations.

The following provisions shall apply to home occupations in all districts in which they are permitted by the use of regulations set forth in this chapter:

(1) *Employment.* Only persons living together as a family on the premises shall be employed on the premises in the conduct of the home occupation.

(2) *Location.* The home occupation shall be conducted within the dwelling unit or within a completely enclosed accessory building on the same property, provided that the home occupation use of an accessory building shall be permitted only when authorized by exception granted by the Board of Zoning Appeals pursuant to Section 30-1040.3. Use of an accessory building for motor vehicle parking or incidental storage of products or materials used in conjunction with a home occupation conducted within the dwelling unit shall not require an exception. There shall be no outside activity or outside storage of products or materials in conjunction with any home occupation.

(3) *Area.* The home occupation, whether located in the dwelling unit or in an accessory building, shall not occupy an area greater than the equivalent of 25 percent of the enclosed and heated floor area of the dwelling unit or more than 500 square feet, whichever is less. Areas within enclosed buildings and used for parking of vehicles as may be required by Section 30-640.2 shall not be included in calculation of the area devoted to the home occupation.

(4) *Appearance.* There shall be no signs, other than specifically permitted by Article V of this chapter, and no displays or alterations to the exterior of the building or premises that would distinguish it as being devoted to a nondwelling use.

(5) *Intensity/traffic.* Visitation by clients, customers, vendors or other visitors associated with the home occupation, including deliveries, shall not exceed a total of four vehicles per day, nor more than two persons at any one time, and shall occur only between the hours of 8:00 a.m. and 6:00 p.m.

(6) *Vehicles.* Parking or storage of vehicles shall be subject to the limitations set forth in Section 30-640.2 of this chapter, provided that no more than two vehicles used in conjunction with a home occupation shall be parked or stored on the premises either outside or inside a completely covered enclosed building.

(7) *Prohibited activities.* In conjunction with any home occupation, no product shall be offered for sale directly to customers on the premises, there shall be no housing of persons for compensation, and there shall be no repair of vehicles or internal combustion engines. The following uses or activities shall be prohibited as a home occupation: beauty salons, barber shops, manicure or pedicure services, massage therapy, medical or dental offices and clinics, catering businesses, kennels, veterinary clinics and similar uses or activities.

(8) *Performance.* There shall be no process or activity conducted or equipment operated that generates any noise, vibration, odor, smoke, fumes, glare or electrical interference discernable to the normal senses beyond the lot lines of the property on which the home occupation is conducted. In the case of a home occupation conducted in a dwelling unit other than a single-family detached dwelling, such impacts shall not be discernable to the normal senses outside of the dwelling unit. The use or storage or both of hazardous materials of such type or in such quantities not normally permitted in a residential structure shall be prohibited.

(Code 2004, § 114-694.1; Code 2015, § 30-694.1; Ord. No. 2005-339-2006-10, § 2, 1-9-2006)

Sec. 30-694.2. Certificate of zoning compliance.

A certificate of zoning compliance shall be required for each home occupation in accordance with the provisions of Article X, Division 3 of this chapter.

(Code 2004, § 114-694.2; Code 2015, § 30-694.2; Ord. No. 2005-339-2006-10, § 2, 1-9-2006)

DIVISION 13. SPECIAL PROVISIONS IN FLOODPLAINS

Sec. 30-696. Applicability of division.

The provisions of this division shall be applicable to buildings and structures situated in any district and located within a designated floodplain.

(Code 2004, § 114-696; Code 2015, § 30-696; Ord. No. 2011-205-2012-1, § 4, 1-9-2012)

Sec. 30-696.1. Parking decks and parking garages.

District regulations prohibiting parking or related circulation of vehicles within portions of parking decks and parking garages located along a principal street frontage shall not be applicable to portions of such structures located below the elevation of the 100-year flood, provided that such parking spaces located along a principal street frontage shall be screened from view from the street by structural material of not less than 45 percent opacity and in accordance with the Virginia Construction Code.

(Code 2004, § 114-696.1; Code 2015, § 30-696.1; Ord. No. 2011-205-2012-1, § 4, 1-9-2012)

Sec. 30-696.2. Building height measurement.

In the case of a building located within a designated floodplain in any district in which height regulations are stated in terms of number of stories, the determination of number of stories shall be as set forth in the district height regulations or may be measured from the elevation of the 100-year flood, whichever enables the greater building height. The first story above the elevation of the 100-year flood shall be construed to be the ground floor for purposes of applying the district height regulations.

(Code 2004, § 114-696.2; Code 2015, § 30-696.2; Ord. No. 2011-205-2012-1, § 4, 1-9-2012)

Sec. 30-696.3. Building façade fenestration.

District regulations requiring building façade fenestration shall not be applicable to that portion of a story of a building located below the elevation of the 100-year flood.

(Code 2004, § 114-696.3; Code 2015, § 30-696.3; Ord. No. 2011-205-2012-1, § 4, 1-9-2012)

DIVISION 14. SHORT-TERM RENTALS

Sec. 30-697. Applicability of article.

Short-term rentals, as defined in Article XII of this chapter, may be located on a lot, subject to the provisions of this division.

(Code 2015, § 30-697; Ord. No. 2019-343, § 1(30-697), 6-22-2020)

Sec. 30-697.1 Short-term rental regulations.

The following conditions are applicable to all short-term rentals in all districts:

(1) The number of sleeping rooms available for any short-term rental shall be limited to five. The number of short-term renters over the age of 18 occupying or present within any short-term rental shall not exceed the lesser of (i) a number equal to two multiplied by the number of sleeping rooms available for short-term rental, or (ii) the maximum number permitted by the most recent edition of the Virginia Uniform Statewide Building Code. For purposes of this subsection, the term "sleeping room" shall have the meaning given that term by the most recent edition of the Virginia Uniform Statewide Building Code.

(2) No short-term rental operator shall rent a short-term rental to one or more short-term renters, unless at least one of the short-term renters is 18 years of age or older.

(3) No individual other than a short-term rental operator may operate a short-term rental. For each short-term rental, the corresponding short-term rental operator shall submit a letter to the Zoning Administrator with (i) contact information for the short-term rental operator, including such operator's name, permanent mailing address, primary contact phone number and, if applicable, an electronic mail address, (ii) an acknowledgement from the short-term rental operator confirming the operation of the dwelling unit as a short-term rental, and (iii) for condominiums and co-ops, evidence that the condominium or co-op board

has approved a request to use the dwelling unit as a short-term rental.

(4) Each short-term rental operator shall provide to the Zoning Administrator and conspicuously post within the short-term rental a floor plan of the layout of the dwelling unit, on which floor plan the short-term rental operator shall label the following:

a. The use of each room;

b. The occupancy level of sleeping rooms and cooking facilities;

c. The location and size of emergency egress and rescue openings; and

d. The location of fire and carbon monoxide detectors.

(5) Smoke detectors shall be present in compliance with the current edition of the Virginia Uniform Statewide Building Code.

(6) A fire extinguisher shall be present in compliance with the current edition of the Virginia Uniform Statewide Building Code.

(7) Carbon monoxide detectors shall be present in compliance with the current edition of the Virginia Uniform Statewide Building Code.

(8) Prior to operation of any dwelling unit as a short-term rental, the owner of the dwelling unit shall obtain a certificate of zoning compliance for the short-term rental use in accordance with the conditions set forth in Sections 30-1020 through 30-1020.5 of the Code of the City of Richmond (2015), as amended.

(9) The owner of a dwelling unit operated or to be operated as a short-term rental shall obtain a certificate of zoning compliance for such use on a biennial basis. Each certificate of zoning compliance shall be effective from January 1 of the year in which such certificate is obtained to December 31 of the following year, regardless of the date on which the dwelling unit owner obtains the certificate.

(10) All advertisements for any short-term rental shall include the certificate of zoning compliance approval number for such short-term rental.

(11) Under no circumstances shall the issuance of a certificate of zoning compliance by the Zoning Administrator be construed as abrogating, nullifying or invalidating any other provision of Federal, State or local law; any deed covenant or property right; or any property owners' association bylaw.

(12) The short-term rental operator shall occupy a dwelling unit on the lot on which the short-term rental operator's short-term rental is located for an aggregate of at least 185 days each calendar year.

(13) No short-term rental operator shall agree to more than one booking transaction during the same period or any portion thereof that results in reservations for two or more separately-booked short-term renters to occupy the same short-term rental at the same time.

(14) No short-term rental operator or owner of a dwelling unit shall offer, provide, advertise or permit use of a dwelling unit for any commercial use that is prohibited by law.

(Code 2015, § 30-697.1; Ord. No. 2019-343, § 1(30-697.1), 6-22-2020)

Sec. 30-697.2. Short-term rentals located in certain residential zoning districts.

For all permitted short-term rentals within the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-43 and R-48 zoning districts, only one non-illuminated wall sign, not exceeding two square feet, shall be permitted.

(Code 2015, § 30-697.2; Ord. No. 2019-343, § 1(30-697.2), 6-22-2020)

Sec. 30-697.3 Short-term rentals located in certain other zoning districts.

For all permitted short-term rentals within any zoning district other than those set forth in Section 30-697.2, all signs shall conform to applicable regulations of Article V of this chapter.

(Code 2015, § 30-697.3; Ord. No. 2019-343, § 1(30-697.3), 6-22-2020)

ARTICLE VII. OFF-STREET PARKING AND LOADING REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 30-700. Applicability of article.

Off-street parking, bicycle parking and loading spaces for uses permitted by this chapter shall be provided in such numbers, at such locations and with such improvements as required by this article.

(Code 1993, § 32-700; Code 2004, § 114-700; Code 2015, § 30-700; Ord. No. 2015-151-164, § 1, 9-14-2015)

DIVISION 2. OFF-STREET PARKING REGULATIONS

Sec. 30-710.1. Number of spaces required for particular uses.

(a) Except as otherwise provided in this article, the minimum number of off-street parking spaces required for uses located in any district shall be as follows (See Sections 30-710.2 through 30-710.3 for special off-street parking requirements in certain districts and the method of determining the number of parking spaces, and see Article IX of this chapter for requirements if property is located in a parking overlay (PO) district):

	Use		*Number of Spaces Required*
(1)	Dwelling, single-family detached		1
(2)	Dwelling, single-family attached		1
(3)	Dwelling, two-family		2
(4)	Dwelling, multifamily:		
	a.	One main building on a lot of record	1 per dwelling unit
	b.	More than one main building on a lot of record	1.5 per dwelling unit containing 2 bedrooms or more; 1.25 per dwelling unit containing fewer than 2 bedrooms
	c.	In R-63 district	1 per dwelling unit
(5)	Dwelling unit:		
	a.	In B-1, B-2, B-3, and UB districts where such units are contained within the same building as a nondwelling use	None for 1 to 3 units; otherwise, 1 per 4 dwelling units
	b.	In B-4 and B-5 districts	None for 1 to 16 dwelling units; 1 per 4 dwelling units over 16 units
	c.	In B-4 district where such units are contained within the same building as a non-dwelling use	None
	d.	In UB-2 district where such units are contained within the same building as a nondwelling use	1 per 2 dwelling units
	e.	In B-6, B-7, RF-1 and RF-2 districts	1 per dwelling unit (see Section 30-446.3)
	f.	In TOD-1 district	None for 1 to 16 dwelling units; 1 per 2 dwelling units over 16 units
(6)	Dwelling, multifamily, where at least 90 percent of units are occupied by persons 60 years or more of age		1 per 2 dwelling units
(7)	Live/work unit		1
(8)	Mobile home		Average of 1.5 per unit

(9)	Tourist home, hotel or motel:		
	a.	RO-3, HO, B-6, B-7, RF-1, RF-2, CM and DCC districts	1 per guestroom up to 100 rooms, plus 1 per every 2 guestrooms over 100 rooms
	b.	B-4, B-5, TOD-1 districts	1 per every 4 guestrooms
	c.	All other districts	1 per guestroom
(10)	Lodginghouse		1 per 2 occupants
(11)	Fraternity or sorority house		1 per 4 beds
(12)	Nursing home, adult care residence, group home, shelter		1 per 4 beds
(13)	Hospital		1 per 3 beds, plus 1 per 3 employees and staff
(14)	Church or other place of worship		1 per 8 seats in main auditorium
(15)	Day nursery		1 per 2 employees
(16)	School: kindergarten through junior high (public or private)		1 per 10 seats in main auditorium or 1 per classroom, whichever is greater
(17)	School: high school, college or vocational (public or private)		1 per 8 seats in main auditorium or 3 per classroom, whichever is greater
(18)	Lodge, club or meeting facility		1 per 100 sq. ft. floor area in meeting or club rooms
(19)	Art gallery, library or museum		10, plus 1 per 300 sq. ft. of floor area in excess of 2,000 sq. ft.
(20)	Theater, auditorium, sports arena or stadium		1 per 5 seating capacity
(21)	Private park, recreational area or country club		1 per 5 members
(22)	Public golf course or miniature golf course		5 per hole
(23)	Golf driving range		2 per tee
(24)	Bowling alley		5 per lane
(25)	Office: general; medical or dental office or clinic; social service delivery use; animal hospital		1 per 300 sq. ft. of floor area for the first 1,500 sq. ft., plus 1 per 400 sq. ft. in excess thereof
(26)	Funeral home		1 per 4 seating capacity of chapel and funeral service rooms, plus 1 per 2 employees
(27)	Service station, auto repair		2 per service bay or repair stall plus spaces to accommodate all vehicles used in connection therewith
(28)	Restaurant, tearoom or similar food and beverage service establishment		1 per 100 sq. ft. of floor area, plus 5 stacking spaces per restaurant drive-in window
(29)	Nightclub		1 per 70 sq. ft. of floor area
(30)	Grocery store, convenience store, specialty food or beverage store, take-out restaurant:		
	a.	Grocery or convenience store occupying more than 5,000 sq. ft. of floor area; take-out restaurant with no patron seating	1 per 150 sq. ft. floor area
	b.	Grocery or convenience store occupying	1 per 300 sq. ft. floor area

		more than 5,000 sq. ft. of floor area; specialty food or beverage store	
(31)	Retail or personal service establishment, financial service, retail bakery (unless otherwise specified herein)		1 per 300 sq. ft. floor area
(32)	Bank or savings and loan office, including drive-in		1 per 300 sq. ft. for the first 1,500 sq. ft. of floor area, plus 1 per 400 sq. ft. in excess thereof, plus 5 stacking spaces per drive-in teller
(33)	Furniture, appliance or hardware store; auto salesroom; tire repair and sales; clothing, shoe or other repair shop; machinery and equipment sales and service		1 per 500 sq. ft. of floor area
(34)	Wholesale establishments		1 per 800 sq. ft. of floor area, plus spaces to accommodate all vehicles used in connection therewith
(35)	Manufacturing, processing, fabricating, testing, research, bottling, warehousing and distribution establishments		1 per 2 employees, plus spaces to accommodate all vehicles used in connection therewith
(36)	Shopping centers		1 per 300 sq. ft. of gross leasable area, provided that for shopping centers with greater than 50 percent of the gross leasable area devoted to uses for which the number of spaces required is 1 per 100 sq. ft. of floor area or greater, required parking shall be as specified in Section 30-710.3(e)
(37)	Philanthropic, charitable or eleemosynary institution		Sum of spaces required for each component of the use, per the most similar use listed in this section
(38)	Flea market		1 per 300 sq. ft. of area devoted to sales and display
(39)	Marinas		1 per 3 boat slips, provided that parking for uses other than a marina shall be as specified in Section 30-710.3(e)

(b) The minimum number of parking spaces required for a use not specifically mentioned in this section shall be as required for the most similar use listed as determined by the zoning administrator.

(Code 1993, § 32-710.1; Code 2004, § 114-710.1; Code 2015, § 30-710.1; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2006-197-217, § 4, 7-24-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2008-36-57, § 3, 3-24-2008; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2015-151-164, § 1, 9-14-2015; Ord. No. 2017-019, § 1, 2-27-2017; Ord. No. 2017-150, § 5, 9-25-2017)

Sec. 30-710.2. Off-street parking not required in certain districts.

In CM, DCC, B-4, B-5, and TOD-1 zoning districts, off-street parking spaces shall not be required for uses other than dwelling uses, hotels and motels.

(Code 1993, § 32-710.2; Code 2004, § 114-710.2; Code 2015, § 30-710.2; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2017-150, § 5, 9-25-2017)

Sec. 30-710.2:1. Special off-street parking requirements in RP district.

The following pertaining to off-street parking shall be applicable in the RP research park district. Except as specified in this section, all other sections of this article shall be applicable in such district:

(1) *Number of spaces.* Not less than one off-street parking space shall be provided per 700 square feet of

floor area devoted to research, development and laboratory facilities; related accessory uses; and retail, personal service, restaurant including outdoor dining areas, and similar uses located in the same building as other permitted uses.

(2) *Location of spaces.* Off-street parking spaces required for any use may be provided on the site of the use or off the premises on property zoned to permit such parking, provided that the parking area or lot within which such spaces are provided shall be located within a 750-foot radius of the property occupied by the use they are intended to serve.

(3) *Spaces reserved for employees.* Notwithstanding the definition of the term "parking space" in Section 30-1220, not more than 25 percent of the minimum number of off-street parking spaces required for a use may be arranged in such manner that access to one such space is provided by passage through another parking space, when such spaces are assigned to specific individuals.

(Code 1993, § 32-710.2:1; Code 2004, § 114-710.2:1; Code 2015, § 30-710.2:1; Ord. No. 2015-151-164, § 1, 9-14-2015)

Sec. 30-710.2:2. Off-street parking not required on certain lots.

Off-street parking shall not be required for a single-family attached dwelling, a single-family detached dwelling, or a two-family detached dwelling on any lot of record existing on June 12, 1995, when such lot is 35 feet or less in width and does not abut an alley, provided the Zoning Administrator is satisfied that the width of such lot cannot be increased by the property owner in accordance with applicable provisions of this chapter by utilization of adjoining land under the same property owner's ownership or control. In addition, off-street parking shall not be required for a single-family attached dwelling, a single-family detached dwelling, or a two-family detached dwelling constructed after the effective date of the ordinance adopting this sentence on any lot for which the City, based on engineering or safety concerns, does not permit any vehicular access to the right-of-way from any part of the lot.

(Code 2004, § 114-710.2:2; Code 2015, § 30-710.2:2; Ord. No. 2004-48-49, § 1, 3-22-2004; Ord. No. 2015-151-164, § 1, 9-14-2015)

Sec. 30-710.2:3. Special off-street parking requirements in the UB, UB-2, B-1, B-2, B-3, B-6, B-7, RF-1 and RF-2 districts.

(a) *Shared parking.* In the UB, UB-2, B-1, B-2, B-3, B-6, B-7, RF-1 and RF-2 districts, off-street parking spaces required for dwelling units may be supplied by off-street parking spaces provided for nondwelling uses, provided that all of the following conditions are met:

(1) The nondwelling use is not routinely open, used or operated after 6:00 p.m. or before 8:00 a.m. on any day.

(2) The total number of off-street parking spaces provided for dwelling units, including spaces shared with nondwelling uses and spaces provided exclusively for dwelling units, shall not be less than the number of spaces required for such dwelling units by the provisions of this chapter.

(3) Off-street parking spaces located off the premises and intended to contribute to the off-street parking requirements of this section for dwelling units shall be subject to the requirements of Section 30-710.4(1), (3), (4) and (5), except where such requirements are modified by provisions applicable within a parking overlay district.

(b) *Reduced parking requirement for uses located in existing buildings in certain districts.*

(1) In the UB-2 district, the off-street parking requirements established by Section 30-710.1 shall be reduced by 50 percent for nondwelling uses located within buildings existing on July 10, 2006, beyond the limitation set forth in subsection (c) of this section.

(2) In the B-6 district, the off-street parking requirements established by Section 30-710.1 shall be reduced by 50 percent for uses located within buildings existing on July 10, 2006, beyond the limitation set forth in subsection (c) of this section.

(3) In the B-7 district, the off-street parking requirements established by Section 30-710.1 shall be reduced by 50 percent for uses located within buildings existing on July 1, 2017 beyond the limitation set forth

in subsection (c) of this section.

(c) *Limitation on parking requirements.* In the UB-2, B-6, B-7, RF-1 and RF-2 districts, in no case where the number of required off-street parking spaces is determined based on floor area devoted to a use shall the off-street parking requirement for such use exceed one space per 300 square feet of floor area.

(d) *Credit for on-street parking in UB, UB-2, B-1, B-2, B-3, B-6, B-7, M-1, M-2, RF-1 and RF-2 districts.* For purposes of calculating the number of off-street parking spaces provided for a use located in an UB, UB-2, B-1, B-2, B-3, B-6, B-7, M-1, M-2, RF-1 or RF-2 district, on-street parking spaces provided within portions of the public right-of-way abutting the street frontage of the property shall be credited as though they were off-street parking spaces located on the premises. In a case where any portion of such on-street parking spaces are eliminated by government action subsequent to City approval of plans for development of the property, the off-street parking requirement applicable to the use shall be reduced by the number of on-street parking spaces eliminated.

(Code 2004, § 114-710.2:3; Code 2015, § 30-710.2:3; Ord. No. 2006-168-189, § 1, 7-10-2006; Ord. No. 2006-329-2007-11, § 1, 1-8-2007; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2008-36-57, § 3, 3-24-2008; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2015-151-164, § 1, 9-14-2015; Ord. No. 2017-150, § 5, 9-25-2017)

Sec. 30-710.2:4. Special off-street parking requirements in the R-63 district.

In the R-63 district, off-street parking shall not be required for principal uses that are permitted only on corner lots, except as provided in the R-63 district regulations for such uses as may be permitted subject to approval of a conditional use permit.

(Code 2004, § 114-710.2:4; Code 2015, § 30-710.2:4; Ord. No. 2006-197-217, § 3, 7-24-2006)

Sec. 30-710.2:5. Special off-street parking requirements in the R-8 district.

In the R-8 district, off-street parking shall not be required for nondwelling uses that are permitted by conditional use permit occupying the ground floor of existing buildings, except as may be provided as a condition of approval of a conditional use permit. Dwelling units occupying space above the ground floor of such buildings shall be provided with not less than one off-street parking space per unit.

(Code 2004, § 114-710.2:5; Code 2015, § 30-710.2:5; Ord. No. 2010-18-30, § 4, 2-22-2010)

Sec. 30-710.3. Method of determining number of parking spaces.

(a) For the purpose of determining the required number of parking spaces, floor area shall include the gross area of the floor space devoted to the particular use, including space devoted to incidental purposes related thereto, and shall be measured along interior faces of enclosing walls or partitions with no deduction for intervening walls or partitions. For a restaurant use, floor area shall also include the gross area of space outside of an enclosed building when such space is designed, arranged or intended for the service or accommodation of patrons of the restaurant.

(b) For the purpose of determining the required number of parking spaces, the number of employees shall be construed to be the maximum number of persons employed on any working shift.

(c) When computation of required parking spaces based on floor area, units, employees or seating capacity results in a fractional number, the number of spaces required shall be the nearest whole number.

(d) When any change is made in a building or use thereof so that the number of parking spaces required by Sections 30-710.1 and 30-900.3 is increased, not less than the number of spaces required for that increase shall be provided in addition to the spaces provided prior to such change.

(e) When a building or premises is devoted to more than one use, the total number of spaces required shall be the sum of the spaces required for each use, provided that in the R-73, RO-2 and RO-3 districts, off-street parking shall not be required for incidental retail, personal service or other uses accessory to permitted principal uses.

(f) In B-1, B-2, and B-3 business districts, the minimum number of off-street parking spaces required for a nondwelling use existing on August 12, 1985, for which use a certificate of occupancy or building permit has been issued by the City and where such use has been continuous since the issuance thereof, shall be as specified by such certificate of occupancy or building permit, unless the Zoning Administrator determines that a greater number of spaces exist for such use, in which case such greater number of spaces shall be required. When the number of off-street parking spaces is not specified on a certificate of occupancy or building permit, the minimum required number

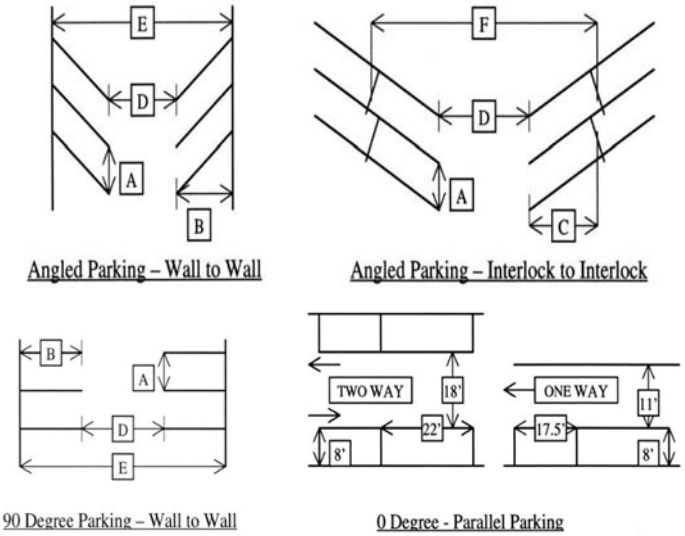
of spaces shall be the number of such spaces that the Zoning Administrator determines existed on August 12, 1985. Any change in a building or use thereof after August 12, 1985, with regard to off-street parking, shall require conformance with the applicable sections of this chapter.

(Code 1993, § 32-710.3; Code 2004, § 114-710.3; Code 2015, § 30-710.3)

Sec. 30-710.3:1. Dimensions of parking spaces.

(a) The minimum size of parking spaces and access aisles, in feet, shall be as follows:

Category	*Stall Width*	*(A) Stall Width Parallel to Aisle*	*(B) Stall Depth to Wall*	*(C) Stall Depth to Interlock*	*(D) Aisle Width*	*(E) Wall to Wall*	*(F) Interlock to Interlock*
Full Size Stalls:							
	45 degrees						
	8.0	11.3	16.6	14.5	13.0	46.5	42.0
	8.5	12.0	16.6	14.5	12.0	45.5	41.0
	60 degrees						
	8.0	9.2	18.2	16.7	17.0	53.5	50.5
	8.5	9.8	18.2	16.7	16.0	52.5	49.5
	75 degrees						
	8.0	8.3	18.5	17.7	21.0	58.0	56.5
	8.5	8.8	18.5	17.7	20.0	57.0	55.5
	90 degrees						
	8.0	8.0	17.5	17.5	25.0	60.0	60.0
	8.5	8.5	17.5	17.5	23.0	58.0	58.0
Compact Stalls:							
	45 degrees						
	7.5	10.6	14.5	12.5	12.0	41.0	37.0
	8.0	11.3	14.5	12.5	11.0	40.0	36.0
	60 degrees						
	7.5	8.7	15.8	14.4	15.0	46.5	44.0
	8.0	9.2	15.8	14.4	14.0	45.5	43.0
	75 degrees						
	7.5	7.8	16.0	15.2	18.0	50.0	48.5
	8.0	8.3	16.0	15.2	17.0	49.0	47.5
	90 degrees						
	7.5	7.5	15.0	15.0	21.0	51.0	51.0
	8.0	8.0	15.0	15.0	20.0	50.0	50.0



The minimum aisle width for two-way traffic shall be 18 feet. Captive stalls for parallel parking shall be 22 feet in length. End stalls for parallel parking shall be 17 1/2 feet in length. The Zoning Administrator may interpolate dimensions for angles not listed above.

(b) Parking areas with five or more spaces may provide a maximum of 20 percent of spaces at compact dimensions, provided that such spaces shall be clearly marked as compact spaces.

(c) A further reduction of two feet in aisle width for full-size stalls shall be permitted in RO-3, HO, B-4, B-5, B-6, B-7, TOD-1, CM, DCC, and RP districts.

(d) Up to 2 1/2 feet of the required parking stall depth specified in subsection (a) of this section may be provided as vehicle overhang area and need not be paved, provided that curbs or wheel stops shall be installed in such manner that the vehicle overhang area is clear of any obstruction to vehicles utilizing the parking space and that the vehicle overhang area shall not encroach into any other parking space, access aisle, public right-of-way, abutting property, pedestrian walkway or any required yard, perimeter buffer or internal landscaped area.

(e) All dead-end aisles providing access to parking spaces shall be provided with backup space of not less than five feet in depth at the end of such aisles.

(Code 1993, § 32-710.3:1; Code 2004, § 114-710.3:1; Code 2015, § 30-710.3:1; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2017-150, § 5, 9-25-2017)

Sec. 30-710.3:2. Dimensions of stacking spaces.

The minimum size of stacking spaces required by the provisions of this chapter shall be eight feet in width and 18 feet in length.

(Code 2004, § 114-710.3:2; Code 2015, § 30-710.3:2; Ord. No. 2004-180-167, § 4, 6-28-2004)

Sec. 30-710.4. Required spaces located off the premises.

Off-street parking spaces required for any use may be provided off the premises of the use for which they are required, provided that:

(1) In the B-4, B-5, B-7, and TOD-1 districts, at least some portion of the parking area, parking lot, parking deck, or parking garage within which such spaces are provided shall be located within a 750-foot radius of a principal entrance to the building occupied by the use for which they are required.

(2) In all other districts, at least some portion of the parking area, parking lot, parking deck, or parking garage within which such spaces are provided shall be located within a 500-foot radius of a principal entrance to the building occupied by the use for which they are required, except that in an RP district, parking spaces located off the premises shall be subject to the provisions set forth in Section 30-710.2:1.

(3) In all cases, property used for such parking spaces shall be located in a district where parking areas

serving the proposed use are permitted except that such parking spaces may be located within a parking deck or a parking garage that is not located in a district where parking areas serving the proposed use are permitted if such parking deck or parking garage was constructed before the commencement of the proposed use.

(4) Subject to subsection (1) of this section, any portion of the parking spaces required for any use may be supplied by parking spaces provided for any other use which is not routinely open, used or operated during the same hours of the day or night.

(5) Where parking spaces required by this article are located on property other than that occupied by the use for which such spaces are required, the property shall be held in fee simple by the owner of the use involved or in such other tenure as assures continued availability for such. When the tenure is other than ownership in fee simple, the tenure shall not be less than one year, and the form and terms of tenure shall be approved by the City Attorney before a certificate of use and occupancy or a certificate of zoning compliance may be issued. When use of property for parking purposes is discontinued, the Zoning Administrator shall be notified, by both the lessor and the lessee, in writing, a minimum of 30 days prior to the discontinuance, and unless the parking spaces located thereon are no longer required by this article, such spaces shall be provided elsewhere in compliance with this article.

(6) Off-premises parking areas and lots containing five or more spaces shall be improved as specified in Division 2.1 of this article.

(7) Off-premises parking spaces, areas or lots shall be provided with identification indicating the use for which they are required and, if applicable, the hours of their availability, provided that such identification shall not be required in the case of off-premises parking spaces, areas or lots that are operated by a governmental agency. In lieu of such identification, the owner of the property on which the parking is located shall provide to the Zoning Administrator an affidavit indicating the location of the property, the number of parking spaces on the property, the number of spaces currently leased or otherwise allocated to serve a use, the use for which such spaces are leased or otherwise allocated, and to whom parking spaces are leased. The Zoning Administrator shall be notified in writing by the owner of the property on which the parking spaces are located prior to any change in the information contained in such affidavit. In addition, the use for which the off-premises parking is provided shall contain notification, in a conspicuous manner on the premises of the use and on a website, if one exists, of the use for which the parking is required, of the availability and location of such parking spaces.

(Code 1993, § 32-710.4; Code 2004, § 114-710.4; Code 2015, § 30-710.4; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2015-151-164, § 1, 9-14-2015; Ord. No. 2017-150, § 5, 9-25-2017)

Sec. 30-710.5. Parking spaces located in required yards.

This section shall apply in addition to the applicable improvement requirements and landscaping standards for parking areas and parking lots contained in Division 2.1 of this article. Spaces for the parking of vehicles and access aisles thereto, except spaces accessory to single-family dwellings, shall not be located within a required front yard or required street side yard on any lot in R, RO, B-1, and OS districts nor within that portion of a required front yard on a lot in any other district and situated within 50 feet of a lot in an R or RO district.

(Code 1993, § 32-710.5; Code 2004, § 114-710.5; Code 2015, § 30-710.5)

Sec. 30-710.6. Reserved.

Sec. 30-710.7. Parking areas located in R districts adjacent to business, commercial or industrial districts.

When authorized by the Board of Zoning Appeals pursuant to Section 17.20(d)(3) of the City Charter, land located in an R district contiguous to an RO, HO, B, UB, UB-2, CM, OS or M district or separated therefrom by an alley may be used for the parking of vehicles of customers of business, commercial or industrial establishments permitted in such districts, provided that such parking shall not extend a distance of more than 170 feet from the boundary of the RO, HO, B, UB, UB-2, CM, OS or M district.

(Code 1993, § 32-710.7; Code 2004, § 114-710.7; Code 2015, § 30-710.7; Ord. No. 2006-168-189, § 2, 7-10-2006)

DIVISION 2.1. OFF-STREET PARKING IMPROVEMENT REQUIREMENTS AND LANDSCAPING

STANDARDS

Sec. 30-710.10. Intent.

The intent of this division is to facilitate the creation of a convenient, attractive and harmonious community; to conserve and protect natural resources, including air and water quality; to protect and enhance property values; and to promote public safety by providing internal landscaping, perimeter buffer, tree coverage and other improvement standards for the development and maintenance of parking areas and parking lots in the City.

(Code 1993, § 32-710.10; Code 2004, § 114-710.10; Code 2015, § 30-710.10)

Sec. 30-710.11. Applicability of division.

(a) *Newly constructed parking areas and parking lots.* The requirements and standards set forth in this division shall be applicable to all principal and accessory parking areas and parking lots newly constructed or established after the effective date of the ordinance from which this division is derived. For purposes of this section, the paving of a previously unpaved parking area or parking lot or the removal and subsequent reconstruction of improvements in an existing parking area or parking lot shall be construed as a newly constructed parking area or parking lot.

(b) *Existing parking areas and parking lots.* The requirements and standards set forth in this division shall be applicable to principal and accessory parking areas and parking lots existing at the effective date of the ordinance from which this division is derived in accordance with the requirements of Article VIII of this chapter pertaining to nonconforming uses and features.

(Code 1993, § 32-710.11; Code 2004, § 114-710.11; Code 2015, § 30-710.11)

Sec. 30-710.12. Improvement of parking areas and parking lots.

Parking areas and parking lots containing five or more parking spaces shall be improved and maintained in accordance with the following:

(1) *Screening along interior lot lines in certain cases.* Whenever a parking area or parking lot abuts or is situated within 50 feet of property in an R, RO, HO or I district, unless separated therefrom by an alley providing access to such parking area or parking lot, the parking area or parking lot shall be effectively screened from view from such property by evergreen vegetative material not less than 3 1/2 feet in height at the time of installation or by an opaque structural fence or wall not less than four feet in height, provided that such parking area or parking lot need not be screened from an adjacent parking area or parking lot containing five or more parking spaces or from an adjacent loading area. Evergreen vegetative material intended to satisfy this subsection shall be planted at such intervals that will result in a continuous visual screen within one year of planting.

(2) *Paving.* Parking areas and parking lots and all entrances thereto and exits therefrom shall be designed and improved using accepted engineering practices for usability and longevity with asphalt, concrete, unit pavers or similar material approved by the administrator of the erosion and sediment control ordinance in Chapter 14, Article III, and shall be designed so as not to create or increase adverse effects on adjoining properties as a result of surface drainage.

(3) *Pavement markings.* Except where the parking of vehicles is by attendant only, each required parking space shall be delineated.

(4) *Maneuvering space.* No parking area or parking lot shall be designed, operated or maintained so as to cause any street or sidewalk to be obstructed by vehicles entering, leaving or maneuvering within such parking area or parking lot. Whenever necessary to prevent such obstruction, space for the maneuvering of vehicles shall be provided within the parking area or parking lot.

(5) *Lighting.* Parking areas and parking lots shall be provided with lighting during the non-daylight hours when such are in use. Lighting shall be designed and installed so as to concentrate illumination within the parking area or parking lot and to prevent glare on adjoining properties and streets. The height of lighting structures shall not exceed the height limit of the district in which they are located, and in no case shall such height exceed 35 feet. When lighting is required by this subsection, the intensity of

illumination within the area devoted to parking shall be not less than 0.5 horizontal footcandle at any location, provided that in no case shall the intensity of illumination exceed 0.5 horizontal footcandle at any property line abutting a lot in an R or RO district. The lighting maximum-to-minimum ratio within the parking area or parking lot shall not exceed 15:1. Parking area and parking lot lighting fixtures shall be constructed or shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane of the fixture.

(Code 1993, § 32-710.12; Code 2004, § 114-710.12; Code 2015, § 30-710.12; Ord. No. 2011-33-53, § 1, 3-28-2011)

Sec. 30-710.13. Perimeter buffers; landscaping requirements.

Except as provided in subsection (3) of this section, parking areas and parking lots containing five or more parking spaces shall be improved and maintained with landscaping in accordance with the requirements of this section as follows:

(1) *Treatment of required landscaped buffers.* Treatment of required landscaped buffers shall be in accordance with the following:

a. Required landscaped buffers shall be provided with vegetative ground cover, trees, shrubs, other plant material, or any combination thereof, except where more specific requirements are set forth in subsection (2) of this section. Mulch ground cover may be provided as a border or supplement to other vegetation in a required landscaped buffer. Pedestrian walkways incidental to landscaped buffers may be incorporated within such buffers when the other requirements of this subsection (1)a are met.

b. All required landscaped buffers shall be protected from encroachment by motor vehicles by installation of curbs, wheel stops or other features which separate the landscaped buffer from areas improved for vehicle parking or circulation.

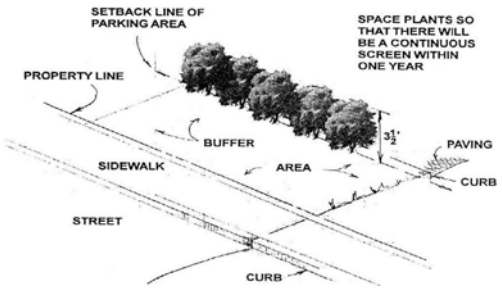
(2) *Landscaped buffers along streets.* Landscaped buffers as set forth in subsections (2)a through (2)d of this section shall be installed and maintained between all areas devoted to parking and all adjacent street lines, provided that approved driveways enabling access to abutting streets may extend through such buffers.

a. *Zoning districts and permitted buffer alternatives.* The following table specifies the buffer and buffer alternatives that satisfy the landscaped buffer requirement in each zoning district. Where more than one buffer alternative is listed for a zoning district, any of the listed alternatives may be provided to satisfy the buffer requirement in that district:

Zoning Districts	*Buffer Alternatives*
R, RO, HO, I	A, B, C, D
UB	F, G, H
B-1	E
UB-2, B-2, B-3	F, G, H
B-4, B-5, B-6, B-7	F, G, H
RF-1, RF-2	F, G, H
TOD-1	H, I
CM, DCC	F, G, H
OS	F
RP	F, G, H
M-1, M-2	F, G, H

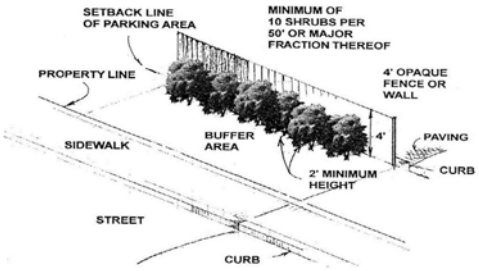
b. *Description of buffer alternatives.* The depth of and improvements required within each buffer alternative are as follows. In all cases, buffer alternatives are minimum requirements, and greater buffer depth, additional landscaping or additional fence or wall improvements may be provided:

1. Buffer "A," as shown below, shall have a depth of not less than the minimum yard requirement applicable along each street frontage of the property, but in no case less than five feet, and shall include an evergreen vegetative screen not less than 3 1/2 feet in height at the time of installation placed along the setback line of the parking area. Evergreen vegetative material intended to satisfy this requirement shall be planted at such intervals that will result in a continuous visual screen within one year of planting.



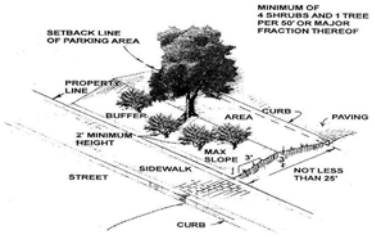
Buffer area depth dependent on yard requirement in district, but in no case less than five feet.

2. Buffer "B," as shown below, shall have a depth of not less than the minimum yard requirement applicable along each street frontage of the property, but in no case less than five feet, and shall include an opaque structural fence or wall not less than four feet in height placed along the setback line of the parking area and shall include shrubs located adjacent to such fence at a rate of not less than ten for each 50 linear feet or major fraction thereof of buffer along each street frontage.



Buffer area depth dependent on yard requirement in district, but in no case less than five feet.

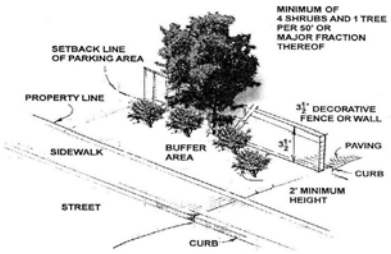
3. Buffer "C," as shown below, shall have a depth of not less than the minimum yard requirement applicable along each street frontage of the property, but in no case less than five feet, and shall include a decorative fence or wall not less than 3 1/2 feet in height placed along the setback line of the parking area and shall include trees and shrubs located adjacent to such fence at a rate of not less than one tree and four shrubs for each 50 linear feet or major fraction thereof of buffer along each street frontage.



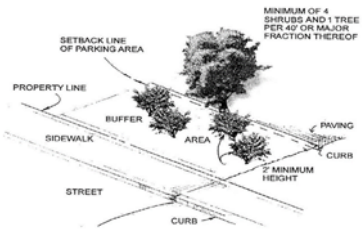
Buffer area depth dependent on yard requirement in district, but in no case less than five feet.

4. Buffer "D," as shown below, shall have a depth of not less than 25 feet and shall consist of an earthen berm not less than three feet in height with slopes not greater than three feet horizontal

for each one foot vertical and shall include trees and shrubs located on the top or street side of such berm at a rate of not less than one tree and four shrubs for each 50 linear feet or major fraction thereof of buffer along each street frontage.

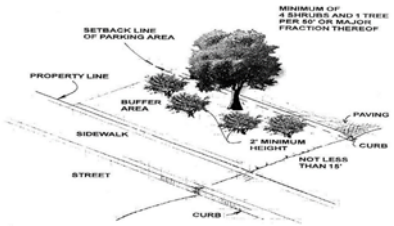


5. Buffer "E," as shown below, shall have a depth of not less than the minimum yard requirement applicable along each street frontage of the property and shall include trees and shrubs at a rate of not less than one tree and four shrubs for each 40 linear feet or major fraction thereof of buffer along each street frontage. In any case where the applicable yard requirement along a street is five feet or less, the trees and shrubs required for buffer "E" may be substituted with the improvements specified for buffer "H" provided that the applicable yard requirement is met.

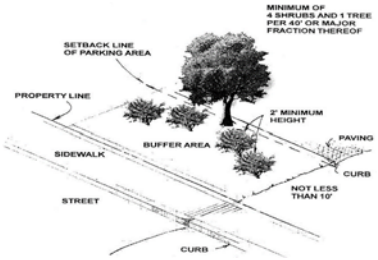


Buffer area depth dependent on yard requirement in district, but in no case less than five feet. Where yard requirement is five feet or less, trees and shrubs may be substituted as specified for buffer "H."

6. Buffer "F," as shown below, shall have a depth of not less than 15 feet and shall include trees and shrubs at a rate of not less than one tree and four shrubs for each 50 linear feet or major fraction thereof of buffer along each street frontage.

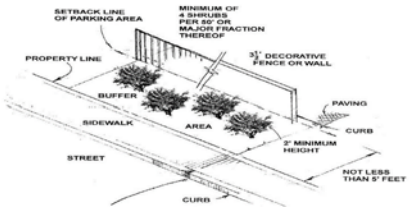


7. Buffer "G," as shown below, shall have a depth of not less than ten feet and shall include trees and shrubs at a rate of not less than one tree and four shrubs for each 40 linear feet or major fraction thereof of buffer along each street frontage.



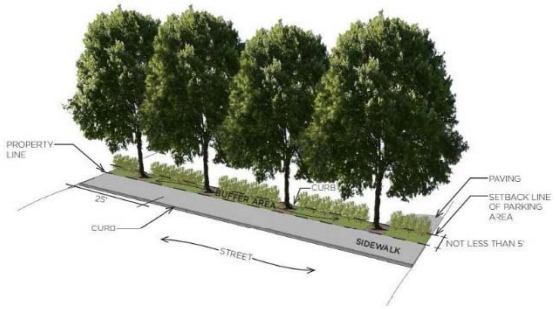
8. Buffer "H," as shown below, shall have a depth of not less than five feet and shall include a decorative fence or wall not less than 3 1/2 feet in height and shrubs at a rate of not less than

four shrubs for each 50 linear feet or major fraction thereof of buffer along each street frontage.

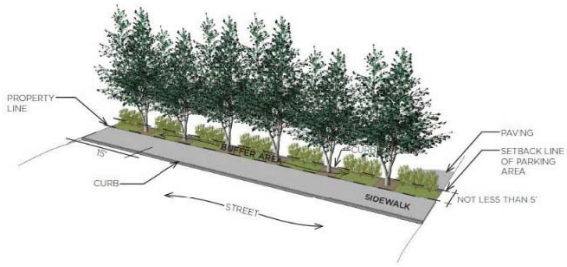


9. Buffer "I," as shown below, shall have a depth of not less than five feet and shall include either trees classified as medium or large in the Tree Canopy Chart dated November, 2002, adopted by the Planning Commission at a rate of one tree for every 30 linear feet or trees classified as compact or small trees in Tree Canopy Chart dated November, 2002, adopted by the Planning Commission at a rate of one tree for every 20 linear feet; as well as groundcover or shrubs covering at least 50 percent of the area of the buffer along each street frontage.

Buffer I, Medium Or Large Trees Illustration



Buffer I, Small Or Compact Trees Illustration



c. *Tree and shrub standards.* Standards for trees and shrubs shall be as follows:

1. Trees to be credited toward buffer requirements shall be deciduous trees having a caliper of not less than 2 1/2 inches at the time of installation measured six inches above the ground or evergreen trees having a height of not less than six feet at the time of installation. Healthy existing trees to be retained within a buffer area may be credited toward buffer requirements when such trees are shown on approved plans and are adequately protected during construction.

2. Trees to be credited toward buffer requirements shall be distributed as equally as practical throughout the length of the buffer, with consideration for the species of trees, topography, location of driveways and utilities and other physical conditions.

3. Shrubs to be credited toward buffer requirements shall be evergreen shrubs not less than two feet in height at the time of installation. Shrubs may be grouped in a manner appropriate to the species and need not be distributed equally throughout the length of the buffer.

d. *Fences or walls.* Fences or walls to be credited toward buffer requirements shall comply with fence

and wall design guidelines adopted by resolution of the Planning Commission or their equivalent as determined by the Zoning Administrator. In no case shall chain link, chain link with slats or similar fencing be considered to meet the requirements of the fence and wall design guidelines.

1. A fence or wall disapproved by the Director of Planning and Development Review shall, at the request of the applicant, be submitted to the Planning Commission for its review. The request for such review shall be made in writing to the Secretary of the Commission, who shall place the request on the Planning Commission's agenda for consideration at its first regularly scheduled meeting following the receipt of such request, provided that the request is received not less than ten days prior to such meeting.

2. After reviewing the decision of the Director of Planning and Development Review, the Planning Commission may affirm the decision or, upon finding that the proposed fence or wall satisfies the fence and wall design guidelines, may instruct the Director of Planning and Development Review to approve the fence or wall. The Planning Commission may attach such conditions as it deems necessary to ensure conformance with the intent and purpose of the fence and wall design guidelines.

e. *Buffer I.* Trees classified as medium or large in the Tree Canopy Chart dated November, 2002, adopted by the Planning Commission shall have a caliper of not less than 2 1/2 inches at the time of installation measured six inches above the ground or evergreen trees having a height of not less than six feet at the time of installation. Trees classified as small or compact in the Tree Canopy Chart dated November, 2002, adopted by the Planning Commission shall have a caliper of not less than 1 1/2 inches at the time of installation measured six inches above the ground or evergreen trees having a height of note less than five feet at the time of installation. Shrubs and groundcover credited towards the 50 percent coverage requirement may be evergreen or deciduous. All shrubs, groundcover, and trees may be grouped in a manner appropriate to the species with consideration for the topography, location of driveways and utilities, and other physical conditions and need not be distributed equally throughout the length of the buffer.

(3) *Landscaped buffers along interior lot lines.* In addition to the screening requirements set forth in Section 30-710.12, parking areas and parking lots containing 30 or more parking spaces and parking areas containing five or more parking spaces serving uses with drive-up facilities or facilities for dispensing motor fuels shall be provided with landscaped buffers of not less than five feet in depth installed and maintained between all areas devoted to parking and all lot lines other than street lines, provided that approved driveways connecting properties or enabling access to abutting alleys may extend through such buffers.

(Code 1993, § 32-710.13; Code 2004, § 114-710.13; Code 2015, § 30-710.13; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2015-151-164, § 1, 9-14-2015; Ord. No. 2017-150, § 6, 9-25-2017)

Sec. 30-710.14. Internal landscaping requirements.

Landscaped islands meeting the requirements of this section shall be provided within all parking areas and parking lots containing 30 or more parking spaces and within parking areas containing five or more parking spaces serving uses with drive-up facilities or facilities for dispensing motor fuels.

(1) *Required number of landscaped islands.* Landscaped islands shall be installed at a rate of not less than the following, unless a greater number of landscaped islands are required to satisfy the provisions of subsection (2) of this section:

a. Within parking areas containing 30 or more parking spaces serving uses other than uses with drive-up facilities or facilities for dispensing motor fuels and within parking lots containing 30 or more parking spaces: one landscaped island for every 15 parking spaces, or major fraction thereof, for the first 100 parking spaces, plus one landscaped island for every additional 20 parking spaces, or major fraction thereof;

b. Within parking areas containing five or more parking spaces serving uses with drive-up facilities

or facilities for dispensing motor fuels: one landscaped island for every ten parking spaces, or major fraction thereof, for the first 30 parking spaces; plus one landscaped island for every additional 15 parking spaces, or major fraction thereof, for up to and including 100 parking spaces; plus one landscaped island for every additional 20 parking spaces, or major fraction thereof, in excess of 100 parking spaces.

(2) *Location of required landscaped islands.* Within parking areas and parking lots containing 100 or fewer parking spaces, landscaped islands shall be located so that no more than 15 parking spaces are situated in a continuous row, and within parking areas and parking lots containing more than 100 parking spaces, landscaped islands shall be located so that not more than 20 parking spaces are situated in a continuous row. Each end of each row of parking spaces shall be separated from adjacent access aisles and driveways by a landscaped island.

(3) *Size of required landscaped islands.* Required landscaped islands shall be not less than eight feet in width measured between the outside faces of curbs or other features that define the landscaped island if curbs are not provided, and shall be not less than the length of abutting parking spaces. In the case of landscaped islands having irregular width, the width shall be measured at each point where a tree is to be located within the island.

(4) *Improvement of required landscaped islands.*

a. Each required landscaped island shall contain not less than one deciduous tree having a caliper of not less than 2 1/2 inches at the time of installation measured six inches above the ground.

b. In addition to required trees, landscaped islands shall be provided with vegetative ground cover, shrubs, other plant material, or any combination thereof. All portions of required landscaped islands not provided with vegetative ground cover or other plant material shall be mulched.

c. Pedestrian walkways incidental to landscaped islands may be incorporated within such islands when the other requirements of this subsection are met.

d. All required landscaped islands shall be protected from encroachment by motor vehicles by installation of curbs, wheel stops or other features which separate the landscaped island from areas improved for vehicle parking or circulation. Required landscaped islands shall not include any portion of a required perimeter buffer or any portion of a parking space.

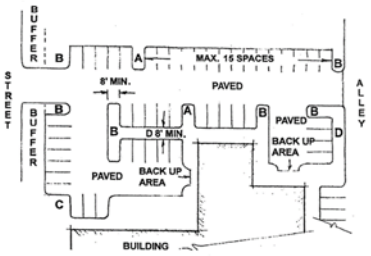
(5) *Areas qualifying as landscaped islands.* As shown below, landscaped islands shall include areas that are improved in accordance with the requirements of this section and are situated:

a. Within an otherwise continuous row of parking spaces so as to provide separation between parking spaces;

b. At the end of a row of parking spaces so as to provide separation between parking spaces and an access aisle, driveway, street, alley or other paved area;

c. At the end of a row of parking spaces so as to provide a corner between rows of parking spaces that are arranged at an angle to one another; or

d. Between opposing rows of parking spaces or between a row of parking spaces and an access aisle, driveway, street, alley or other paved area.



Landscape Islands

(Code 1993, § 32-710.14; Code 2004, § 114-710.14; Code 2015, § 30-710.14; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-710.15. Tree coverage requirements.

Parking areas and parking lots containing 30 or more parking spaces and parking areas containing five or more parking spaces serving uses with drive-up facilities or facilities for dispensing motor fuels shall be improved and maintained with trees in accordance with the requirements of this section.

(1) *Determining projected tree coverage.* Projected tree coverage shall be determined in accordance with the City of Richmond Tree Canopy Chart which shall be adopted by resolution of the Planning Commission. Other tree species and larger trees not shown on the tree canopy chart may be given credit toward the tree coverage requirement when supporting data adequate to determine coverage is submitted to and accepted by the Zoning Administrator.

(2) *Minimum projected tree coverage.* Trees shall be planted or existing trees shall be retained so as to provide a projected tree coverage at ten years from the date of plan approval as determined by the following formulas:

a. A parking area serving a use other than a use with drive-up facilities or facilities for dispensing motor fuels, or a parking lot, shall have a projected tree coverage area equivalent to not less than 30 square feet for each parking space contained in the parking area or parking lot.

b. A parking area serving a use with drive-up facilities or facilities for dispensing motor fuels shall have a projected tree coverage area equivalent to not less than 40 square feet for each parking space contained in the parking area.

(3) *Minimum tree sizes.* Trees to be credited toward the tree coverage requirement shall meet the following standards at the time of installation:

a. Deciduous trees shall have a caliper of not less than 2 1/2 inches measured six inches above the ground.

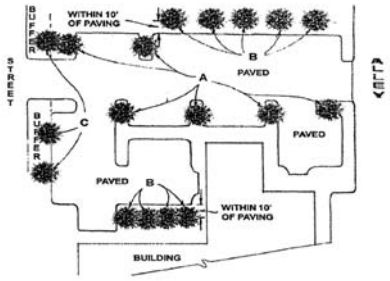
b. Evergreen trees shall be not less than six feet in height.

(4) *Location of trees to be credited.* As shown below, trees to be credited toward the tree coverage requirement may be located:

a. Within landscaped islands meeting the requirements of Section 32-710.14;

b. Between the area devoted to parking and a building on the same site, or between the area devoted to parking and a side or rear property line, provided such trees are located within ten feet of the area devoted to parking; or

c. Within that portion of a perimeter buffer lying within ten feet of the area devoted to parking, provided that trees required to meet perimeter buffer requirements shall not be credited toward the tree coverage requirement.



Location of Trees

(5) *Retention of existing trees.* Healthy existing trees to be retained may be credited toward the tree coverage requirement when such trees are located as specified in subsection (4) of this section, are shown on approved plans, and are adequately protected during construction.

(Code 1993, § 32-710.15; Code 2004, § 114-710.15; Code 2015, § 30-710.15; Ord. No. 2004-180-167, § 1, 6-28-2004)

Sec. 30-710.16. Maintenance.

The owner of the property shall be responsible for maintenance, repair and replacement of landscaping materials and other improvements required by this division in such manner that the requirements of this division continue to be met.

(Code 1993, § 32-710.16; Code 2004, § 114-710.16; Code 2015, § 30-710.16)

DIVISION 3. OFF-STREET LOADING REGULATIONS

Sec. 30-720.1. Number and length of spaces required.

The minimum number and the minimum length of off-street loading spaces required for uses occupying certain amounts of floor area and located in particular districts shall be as follows:

Use		*District*	*Floor Area in Square Feet*	*Number/Length of Spaces Required*
(1)	Office, hotel, bank or institution	RO-1, RO-2, RO-3, HO, I, UB-2, B-1, B-2, B-3 or OS	Less than 20,000	None
			20,000—49,999	One/35'
			50,000—300,000	One/35'
			Each additional 100,000 or major fraction thereof	One/50' and one/35'
(2)	Office, hotel, bank or institution	B-4, B-5, B-6, B-7, TOD-1, RF-1, RF-2, CM, DCC, RP, M-1 or M-2	Less than 20,000	None
			20,000—99,999	One/35'
			100,000—300,000	One/35'
			Each additional 100,000 or major fraction thereof	One/50'and one/35'
(3)	Retail, wholesale or service establishment	Any district	Less than 5,000	None
			5,000—14,999	One/35'
			15,000—75,000	One/35'
			Each additional 75,000 or major fraction thereof	One/50' and one/35'
(4)	Manufacturing, industrial or warehousing	Any district	Less than 5,000	None
			5,000—24,999	One/35'
			25,000—100,000	One/35'
			Each additional 75,000 or major fraction thereof	One/50' and one/35'

(5)	Research, development and laboratory	Any district	Less than 20,000	None
			20,000—99,999	One/35'
			100,000—300,000	One/35'
			Each additional or major fraction thereof	One/50' and one/35'

(Code 1993, § 32-720.1; Code 2004, § 114-720.1; Code 2015, § 30-720.1; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2017-150, § 7, 9-25-2017)

Sec. 30-720.2. Method of determining number.

(a) For the purpose of determining required number and length of loading spaces, floor area shall include the gross area of the floor space devoted to the particular use, including floor space devoted to incidental purposes related thereto, and shall be measured along interior faces of enclosing walls or partitions with no deduction for intervening walls or partitions.

(b) When a building is devoted to more than one use specified in Section 30-720.1, the minimum number and length of loading spaces required shall be determined as though the use occupying the greatest percentage of floor area within such building occupies the entire floor area of the building.

(Code 1993, § 32-720.2; Code 2004, § 114-720.2; Code 2015, § 30-720.2)

Sec. 30-720.3. Location and improvement of loading spaces.

(a) No loading space or maneuvering space related thereto shall be located within a required yard adjacent to a public street or within a required yard abutting property in an R or RO district.

(b) Whenever a loading space or maneuvering area related thereto abuts or is situated within 50 feet of property in an R, RO, HO or I district, the loading space or maneuvering area shall be effectively screened from view from such property by an evergreen vegetative or opaque structural fence or screen not less than six feet in height, provided that such loading space or maneuvering area need not be screened from a loading space, maneuvering area or parking area containing five or more spaces located on adjacent property.

(c) Each required loading space shall be identified as such and shall be reserved for loading purposes.

(d) No loading space shall occupy required off-street parking spaces or restrict access thereto.

(e) All loading spaces and maneuvering spaces related thereto shall be graded, improved and maintained so as to be available for use under normal weather conditions and so as not to create adverse effects on adjoining property as a result of dust or surface drainage.

(Code 1993, § 32-720.3; Code 2004, § 114-720.3; Code 2015, § 30-720.3)

Sec. 30-720.4. Dimensions of loading spaces.

Required off-street loading spaces shall be not less than ten feet in width and shall have an unobstructed vertical clearance of not less than 14 feet. The minimum length of required off-street loading spaces shall be as set forth in Section 30-720.1.

(Code 1993, § 32-720.4; Code 2004, § 114-720.4; Code 2015, § 30-720.4)

Sec. 30-720.5. Required loading spaces in UB-2, B-5, B-6, B-7, TOD-1, and DCC districts.

In the UB-2, B-5, B-6, B-7, TOD-1, and DCC districts, spaces for the loading of vehicles shall be required only for uses occupying buildings newly constructed after the effective date of the ordinance from which this chapter is derived.

(Code 1993, § 32-720.5; Code 2004, § 114-720.5; Code 2015, § 30-720.5; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2017-150, § 7, 9-25-2017)

DIVISION 4. BICYCLE PARKING REGULATIONS

Sec. 30-730.1. Intent.

The intent of this division is to facilitate the creation of a convenient, attractive and harmonious community; to promote the conservation and protection of natural resources and air quality; to protect and enhance property values; and to promote public safety by providing secure bicycle parking within the City.

(Code 2015, § 30-730.1; Ord. No. 2015-151-164, § 2, 9-14-2015)

Sec. 30-730.2. Bicycle parking requirement.

The minimum number of bicycle parking spaces required for uses located in any district shall be as follows:

(1) For multifamily dwellings:

Number of Dwelling Units	*Number of Long-Term Bicycle Parking Spaces Required*	*Number of Short-Term Bicycle Parking Spaces Required*
Less than 10	None	None
10 to 49 dwelling units	1 space for every 3 dwelling units or major fraction thereof	None
50 or more dwelling units	1 space for every 4 dwelling units or major fraction thereof	2 spaces for 50 dwelling units; 2 additional spaces for every 50 dwelling units or major fraction thereof

(2) For parking decks and parking garages containing parking spaces serving nonresidential uses:

Number of Parking Spaces	*Minimum Number of Bicycle Parking Spaces Required*
0 to 4	None
5 to 20	1 space
21 to 40	2 space
Over 40	1 space for every 10 parking spaces or major fraction thereof

(Code 2015, § 30-730.2; Ord. No. 2015-151-164, § 2, 9-14-2015)

Sec. 30-730.3. Location of required bicycle parking spaces.

(a) All required bicycle parking spaces located within a parking deck or parking garage shall be located on a level no lower than the first complete parking level below the ground floor.

(b) Long-term bicycle parking spaces shall be located on the same premises as the use which they are intended to serve.

(c) Short-term bicycle parking spaces shall be located within 120 feet of the principal entrance to the building occupied by the use they serve. In cases where short-term bicycle parking spaces are not visible from the principal street frontage, signage to direct the public to the short-term bicycle parking spaces shall be installed and maintained.

(Code 2015, § 30-730.3; Ord. No. 2015-151-164, § 2, 9-14-2015)

ARTICLE VIII. NONCONFORMING USES AND FEATURES

DIVISION 1. NONCONFORMING USES

Sec. 30-800. Continuation.

Nonconforming uses as defined in Section 30-1220 may be continued subject to the limitations set forth in this division so long as the then-existing or more restricted use continues.

(Code 1993, § 32-800; Code 2004, § 114-800; Code 2015, § 30-800)

Sec. 30-800.1. Alterations to buildings or structures devoted to nonconforming uses.

No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved or structurally altered unless such building or structure is thereafter devoted to a conforming use, provided that nothing in this division shall be construed to prohibit normal repair, maintenance and nonstructural alterations to such building or structure nor the alteration, strengthening or restoration to a safe condition as may be required by law and provided, further, that the following shall be permitted:

(1) *Hospitals and institutional uses.* A building or structure devoted to a nonconforming hospital or a nonconforming institution of a religious, educational, eleemosynary or philanthropic nature located in any district may be structurally altered so long as the amount of floor area devoted to the use is not increased.

(2) *Dwellings in business districts.* Any building containing a nonconforming single-family detached, single-family attached, two-family or multifamily dwelling in a UB, UB-2, B or OS district may be maintained, improved, enlarged, extended or structurally altered or may be reconstructed if damaged by fire, explosion, act of God or the public enemy, provided that in no case shall the amount of floor area devoted to such dwelling at the time it became nonconforming be increased more than ten percent nor shall the lot area, lot width or yard depths be reduced to less than required for the use in the R-48 district.

(3) *Uses in UB-2, B-5 or B-6 districts.* Any building devoted to a use which becomes nonconforming by reason of its inclusion in a UB-2, B-5 or B-6 district may, for purposes of accommodating such use, be maintained, improved, enlarged, extended or structurally altered or may be reconstructed if damaged by fire, explosion, act of God or the public enemy, provided that in no case shall the amount of floor area devoted to such use at the time of its inclusion in the B-5 or B-6 district be increased more than ten percent.

(4) *Alterations to accommodate a wireless communications facility, microwave relay facility, or radio and television broadcast antenna and support structure.* Any building or structure occupied by or accessory to a nonconforming use may be modified as necessary to accommodate such facilities and antennas, as set forth in Section 30-692.3, provided the applicable requirements of that section are met. The equipment related to the facility or antenna may be accommodated within the interior of the building by either the reduction of the space devoted to the nonconforming use, the conversion of previously unoccupied space within the building, or a combination thereof.

(Code 1993, § 32-800.1; Code 2004, § 114-800.1; Code 2015, § 30-800.1; Ord. No. 2008-2-55, § 2, 3-24-2008)

Sec. 30-800.2. Extension or expansion.

(a) Except as specifically permitted by this division, a nonconforming use shall not be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically and lawfully designed and arranged for such use at the time it became nonconforming so long as such extension does not result in any increase in the required number of off-street parking spaces under the terms of this chapter or any increase in the number of dwelling or lodging units in the building. No material change in a nonconforming use or material change in the program or operating characteristics of a nonconforming use shall take place that would increase the intensity of the use.

(b) The area of a lot on which a nonconforming use is located shall not be reduced unless authorized by the Board of Zoning Appeals pursuant to Article X of this chapter.

(c) Fences, walls, and building-mounted and freestanding solar energy systems shall be permitted on properties devoted to nonconforming uses in the same manner and subject to the same requirements as properties devoted to conforming uses.

(Code 1993, § 32-800.2; Code 2004, § 114-800.2; Code 2015, § 30-800.2; Ord. No. 2020-171, § 1(30-800.2), 9-28-2020)

Sec. 30-800.3. Changes.

(a) A nonconforming use may be changed to a use conforming to the regulations applicable in the district in which it is located or to a use, as determined by the Zoning Administrator, which meets all of the following criteria:

(1) The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district.

(2) The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1.

(3) The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use.

(4) The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located.

(5) In addition to the other criteria set forth in this section, a nonconforming use which is permitted by conditional use permit in any district established by this chapter may be changed only to a use conforming to the use regulations applicable in the district in which it is located or to a dwelling use.

(6) In addition to the other criteria set forth in this section, a nonconforming use which is listed as a permitted use only in the I district and for which an institutional master plan is required may be changed only to a use conforming to the use regulations applicable in the district in which it is located or to a dwelling use.

(7) Subject to the applicable criteria set forth in this section, a change to a multifamily dwelling shall be permitted in a R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 district, provided that there shall be a lot area of not less than 750 square feet for each dwelling unit.

(b) Whenever a nonconforming use is changed to a more restricted use or to a conforming use, the use shall not thereafter be changed to a less restricted use, unless such use is permitted by this chapter.

(c) When a change in a nonconforming use to a more restricted use as permitted by subsection (a) of this section or to a conforming use would result in imposition of a greater yard or open space requirement, such requirement shall not be construed to prohibit the change in use, provided that no physical change is made to the building or lot that results in any greater departure from any applicable requirement of this chapter.

(d) When a nonconforming use has been changed to an illegal use, such illegal use shall cease, and any subsequent use of the property shall conform to the regulations applicable in the district in which it is located or, if the nonconforming use has been discontinued for a period of less than two years, the illegal use may be changed to the last nonconforming use or to a use that is more restricted than such use.

(Code 1993, § 32-800.3; Code 2004, § 114-800.3; Code 2015, § 30-800.3; Ord. No. 2019-352, § 1, 1-13-2020)

Sec. 30-800.4. Discontinuance in general.

Whenever a nonconforming use of a building or structure is discontinued for a period of two years or longer, whether or not equipment or fixtures are removed, any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

(Code 1993, § 32-800.4; Code 2004, § 114-800.4; Code 2015, § 30-800.4)

Sec. 30-800.5. Discontinuance of uses of land.

A nonconforming use of land shall be discontinued within two years from the effective date of the ordinance or amendment thereto causing it to become nonconforming.

(Code 1993, § 32-800.5; Code 2004, § 114-800.5; Code 2015, § 30-800.5)

Sec. 30-800.6. Discontinuance of certain uses in single-family districts.

(a) *Business and industrial uses.* The nonconforming use of a building in a single-family residential district for any purpose first permitted in a business or industrial district shall be discontinued within 15 years from the effective date of the ordinance or amendment thereto causing it to become nonconforming, and such building shall

thereafter be devoted to conforming uses, provided that such nonconforming use of a building constructed less than 25 years prior to the effective date of the ordinance or amendment thereto causing it to become nonconforming shall be discontinued within 40 years from the date of the construction thereof and shall thereafter be devoted to conforming uses.

(b) *Lodginghouses and tourist homes.* The nonconforming use of a building in any single-family residential district for a lodginghouse or tourist home shall be discontinued within three years from the effective date of the ordinance or amendment thereto causing it to become nonconforming, and such building shall thereafter be devoted to conforming uses.

(Code 1993, § 32-800.6; Code 2004, § 114-800.6; Code 2015, § 30-800.6)

Sec. 30-800.7. Reserved.

Sec. 30-800.8. Damage to buildings devoted to nonconforming uses.

(a) When a building devoted to a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of 60 percent or less of its replacement value, as determined by the Commissioner of Buildings utilizing the R S Means or a similar cost evaluation system for comparable construction, such building may be restored, repaired, reconstructed and used as before such damage, provided that the area devoted to the nonconforming use shall not be increased, and provided further that application for a building permit for the restoration, repair or reconstruction shall be submitted within two years of the date of damage.

(b) When a building devoted to a nonconforming use is damaged by fire, explosion by fire, explosion, act of God or the public enemy to the extent of more than 60 percent of its replacement value, as determined by the Commissioner of Buildings utilizing the R S Means or a similar cost evaluation system for comparable construction, such building, if restored, shall thereafter be devoted to conforming uses, except as otherwise permitted pursuant to the provisions of Section 17.20 of the Charter.

(Code 1993, § 32-800.8; Code 2004, § 114-800.8; Code 2015, § 30-800.8; Ord. No. 2003-184-131, 1, 5-27-2003)

Sec. 30-800.9. Seasonal uses.

Intermittent or temporary use of land, buildings or structures shall not be construed to establish the existence of a nonconforming use for the purposes of this division, provided that a lawful seasonal use that was in operation for at least two consecutive seasons immediately prior to the adoption of the ordinance from which this chapter is derived or subsequent amendment thereto shall be considered a nonconforming use for seasonal purposes only and shall be subject to applicable sections of this division.

(Code 1993, § 32-800.9; Code 2004, § 114-800.9; Code 2015, § 30-800.9)

DIVISION 2. NONCONFORMING FEATURES

Sec. 30-810. Continuation.

Nonconforming features of uses, buildings and structures may be continued subject to the limitations set forth in this division. See Section 30-1220 for the definition of a nonconforming feature.

(Code 1993, § 32-810; Code 2004, § 114-810; Code 2015, § 30-810)

Sec. 30-810.1. Alterations to buildings or structures having nonconforming features.

Any building or structure having a nonconforming feature may be maintained, enlarged, extended or structurally altered, provided that such enlargement, extension or structural alteration shall not increase the degree or extent of the nonconforming feature and provided, further, that no building or structure having a nonconforming feature shall be moved, reconstructed or substituted with another building or structure unless such nonconforming feature is thereby eliminated and the building or structure is made to conform with this chapter. Vertical expansion of that part of a building which is nonconforming with regard to a yard or open space requirement shall be considered an increase in the extent of the nonconforming feature and shall not be permitted. For the purpose of this section, the installation of wireless communications facilities, building-mounted solar energy systems, microwave relay facilities, or radio and television broadcast antennas, through use of alternative support structures, shall not be deemed to increase the degree or extent of a nonconforming feature, as set forth in Section 30-692.3,

provided the applicable requirements of that section are met.

(Code 1993, § 32-810.1; Code 2004, § 114-810.1; Code 2015, § 30-810.1; Ord. No. 2020-171, § 1(30-810.1), 9-28-2020)

Sec. 30-810.2. Alterations to radio and television broadcast antenna support structures, microwave relay facility support structures and wireless communications facility support structures.

Radio and television broadcast antenna support structures, microwave relay facility support structures and wireless communications support structures which have nonconforming features may be modified, strengthened, and/or rebuilt for the purpose of accommodating additional antennas, provided such modification, strengthening and/or rebuilding does not result in an increase in the preexisting diameter or horizontal dimensions and the overall height is not increased by more than ten percent. If the existing support structure is not of a monopole design and rebuilding is proposed, the replacement support structure shall be of monopole design.

(Code 1993, § 32-810.2; Code 2004, § 114-810.2; Code 2015, § 30-810.2)

Sec. 30-810.3. Damage to buildings or structures having nonconforming features.

(a) When a building or structure having a nonconforming feature is damaged by fire, explosion, act of God or the public enemy to the extent of 60 percent or less of its replacement value, as determined by the Commissioner of Buildings utilizing the R S Means or a similar cost evaluation system for comparable construction, such building or structure may be restored, repaired or reconstructed as before the damage, provided that such restoration, repair or reconstruction shall not increase the degree or extent of any nonconforming feature that existed before the damage, and provided further that application for a building permit for the restoration, repair or reconstruction shall be submitted within two years of the date of damage.

(b) When a building or structure having a nonconforming feature is damaged by fire, explosion, act of God or the public enemy to the extent of more than 60 percent of its replacement value, as determined by the Commissioner of Buildings utilizing the R S Means or a similar cost evaluation system for comparable construction, such building or structure may be reconstructed, provided that in the reconstruction thereof, the nonconforming feature shall be eliminated and the building or structures shall thereafter conform with the provisions of this chapter except as otherwise permitted pursuant to the provisions of Section 17.20 of the Charter.

(c) When a main building is located in any district in which building height is limited by number of stories and when such main building is nonconforming with regard to number of stories or is nonconforming with regard to height of stories, and is damaged by fire, explosion, act of God or the public enemy to any extent, such building or structure may be restored, repaired or reconstructed to such number of stories or height of stories as existed before the damage, provided that such restoration, repair or reconstruction shall not increase the degree or extent of any nonconforming feature that existed before the damage, and provided further that application for a building permit for the restoration, repair or reconstruction shall be submitted within two years of the date of damage.

(Code 1993, § 32-810.3; Code 2004, § 114-810.3; Code 2015, § 30-810.3; Ord. No. 2003-184-131, 1, 5-27-2003; Ord. No. 2009-36-56, § 1, 4-27-2009; Ord. No. 2009-40-57, § 1, 4-27-2009; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2010-177-173, § 3, 10-11-2010)

Sec. 30-820. Reserved.

DIVISION 3. VIOLATIONS

Sec. 30-830. Unlawful continuance.

Nothing contained in this article shall be construed to authorize or permit the continuance of any use or feature which was in violation of any chapter of this Code pertaining to zoning and preceding this chapter, and any such use or feature shall not be deemed to be nonconforming under this chapter and shall be unlawful.

(Code 1993, § 32-830; Code 2004, § 114-830; Code 2015, § 30-830)

ARTICLE IX. OVERLAY DISTRICTS

DIVISION 1. PARKING OVERLAY DISTRICTS

Sec. 30-900. Scope.

This division applies generally to parking overlay districts and is for the purpose of setting forth the means of establishing such districts and determining the off-street parking requirements applicable within each.

(Code 1993, § 32-900; Code 2004, § 114-900; Code 2015, § 30-900)

Sec. 30-900.1. Intent of districts.

(a) Pursuant to the general purposes of this chapter, the intent of parking overlay districts is to provide a means whereby the City Council may establish overlay districts to enable application of appropriate off-street parking requirements to business uses located within areas of the City characterized by a densely developed pedestrian shopping environment in close proximity to residential neighborhoods. The districts are intended to recognize that, due to several factors, business uses located in such areas typically generate lower demands for privately maintained off-street parking spaces than are reflected in the requirements generally applicable in the City and set forth in Section 30-710.1.

(b) Parking requirements within parking overlay districts are designed to reflect the factors that result in lower parking demand in such areas. These factors include:

(1) A function similar to that of a shopping center, resulting in a high proportion of multipurpose trips by patrons;

(2) Considerable walk-in trade due to proximity to residential areas and employment centers;

(3) Significant numbers of employees that walk to work due to proximity to living areas;

(4) Availability of public transportation; and

(5) Many older buildings which have been adapted from other uses and tend to be less efficient than newer special purpose buildings.

It is also intended that each parking overlay district reflect the supply of public parking spaces within the district by providing for further reduction in the parking requirements in direct proportion to available public parking.

(c) Parking overlay districts are intended to complement the UB Urban Business District and to be applied principally to those areas within such district which possess the factors enumerated in subsection (b) of this section, but may also be applied independent of the UB district to other areas where such factors exist within other specified districts.

(Code 1993, § 32-900.1; Code 2004, § 114-900.1; Code 2015, § 30-900.1)

Sec. 30-900.2. Application of districts and regulations.

(a) *Relation to other districts.* Parking overlay districts shall be in addition to and shall be applied so as to overlay and be superimposed on such other zoning districts as permitted by subsection (b) of this section and shown on the official zoning map. Any property lying within a parking overlay district shall also lie within one or more of such other zoning districts, which shall be known as underlying districts.

(b) *Permitted underlying districts.* Parking overlay districts shall be applied so as to overlay a UB, B-1, B-2 or B-3 district. Parking overlay districts may also be applied so as to overlay those portions of an RO-1, RO-2 or RO-3 district which lie contiguous to a UB, B-1, B-2 or B-3 district and constitute a part of the same parking overlay district.

(c) *Minimum district size.* Each parking overlay district shall comprise a contiguous area of not less than 25,000 square feet.

(d) *Establishment of districts.* Every parking overlay district shall be established by amendment to the official zoning map in the same manner as other zoning map amendments and as provided for by this chapter. Every area designated as a parking overlay district by such zoning map amendment shall constitute a separate district which shall be numbered serially in the order of adoption and shown on the official zoning map by a special symbol, pattern or shading depicting the boundaries of the district together with the numerical designation of the district. A description of the boundaries of each parking overlay district, the date of adoption of the district or amendment thereto and the off-street parking requirements applicable therein shall be set forth in this chapter.

(e) *Application of district regulations.* Each parking overlay district is for the purpose of establishing the

minimum number of off-street parking spaces required for specified uses located within that district and, unless specifically provided to the contrary in this division, such number shall be in lieu of the requirements set forth in Section 30-710.1. In all other respects, the regulations normally applicable within the underlying district shall apply to property within the boundaries of the parking overlay district.

(Code 1993, § 32-900.2; Code 2004, § 114-900.2; Code 2015, § 30-900.2)

Sec. 30-900.3. Number of spaces required.

The minimum number of off-street parking spaces required for uses located in each parking overlay district shall be determined by application of this section. The minimum number of parking spaces required for a use not included within any of the use groups set forth in subsection (1) of this section shall be as required for such use by Section 30-710.1, unless specifically set forth to the contrary in the parking overlay district. The minimum number of off-street parking spaces required shall be as follows:

(1) *Base requirements.* The base requirements for the minimum number of off-street parking spaces for uses included within the following use groups shall be as follows, provided that lesser base requirements for specific uses or use groups may be established in the case of any parking overlay district when the City Council is satisfied that unique circumstances pertaining to the uses, physical conditions or functional characteristics within the parking overlay district justify such lesser base requirements:

a. Retail stores and shops, shopping centers, food stores, personal service and other service businesses, banks and savings and loan offices, and similar businesses: one space per 300 square feet of floor area.

b. Restaurants, theaters, amusement centers, lodges and clubs, and similar uses: one space per 150 square feet of floor area.

c. Offices including medical and dental offices and clinics, studios, veterinary clinics, and similar uses: one space per 300 square feet for the first 1,500 square feet of floor area, plus one space per 540 square feet of floor area in excess thereof.

d. Furniture, carpet, appliance, hardware or home improvement stores; clothing, shoe or other repair shops; and similar uses: one space per 750 square feet of floor area.

(2) *Public parking allowance.* It is the intent of this subsection that the base requirements set forth in subsection (1) of this section be reduced in proportion to the available supply of public parking spaces within each district. Such reduction shall be determined in accordance with the following and shall be known as the public parking allowance for the district. Prior to the introduction of any ordinance establishing a parking overlay district or expanding or contracting the boundaries of any such district, the following determinations shall be made relative to the particular circumstances within the proposed boundaries of the district in order to establish the public parking allowance applicable in that district:

a. *Total floor area.* The total square foot amount of all nonresidential floor area contained in all buildings located within the proposed district shall be determined. For purposes of such determination, floor area shall be as indicated on the most recent real estate tax assessment records of the City.

b. *Total parking need.* The total need for parking spaces within the proposed district shall be determined by multiplying the total floor area calculated under subsection (2)a of this section by 3.0 parking spaces per 1,000 square feet of floor area.

c. *Available public parking.* The total number of public parking spaces available within the proposed district shall be determined. The percentage of the total parking need represented by such number of public parking spaces, rounded to the nearest five percent, shall be determined. Such figure shall be the public parking allowance applicable within the district. For purposes of this subsection, public parking spaces shall be as defined in Section 30-1220.

d. *Application of public parking allowance.* The base requirements set forth in subsection (1) of this section shall be reduced by the public parking allowance determined under subsection (2)c of this section. The result of such reduction, rounded to the nearest ten square feet, shall be the off-street

parking requirements applicable to individual uses within the proposed parking overlay district.

(Code 1993, § 32-900.3; Code 2004, § 114-900.3; Code 2015, § 30-900.3; Ord. No. 2009-37-50, § 1, 4-13-2009)

Sec. 30-900.4. Method of determining required number of spaces for individual uses.

The minimum number of off-street parking spaces required for individual uses located within parking overlay districts shall be determined in accordance with the following rules:

(1) Section 30-710.3(a) through (e) shall be applicable.

(2) Where the number of parking spaces required for a particular use by application of Section 30-710.3(f) is less than the number of spaces that would be required for that use by application of Section 30-900.3, such lesser number of spaces shall be the requirement applicable to the use.

(Code 1993, § 32-900.4; Code 2004, § 114-900.4; Code 2015, § 30-900.4)

Sec. 30-900.5. Employee parking.

Notwithstanding the definition of the term of "parking space" in Section 30-1220, not more than 25 percent of the minimum number of off-street parking spaces required for a use may be designated and reserved for employee parking and may be arranged in such manner that access to one such space is provided by passage through another parking space. For purposes of determining the permitted number of employee parking spaces, the minimum number of off-street parking spaces required for a use shall be construed to be the number of spaces determined after application of all of the sections of this division, including determination of any nonconforming rights that may be applicable to the use.

(Code 1993, § 32-900.5; Code 2004, § 114-900.5; Code 2015, § 30-900.5)

Sec. 30-900.6. Required spaces located off the premises.

Off-street parking spaces may be provided off the premises occupied by the use for which such spaces are required in accordance with Section 30-710.4, provided that a parking overlay district may specify regulations pertaining to required spaces located off the premises that differ from those regulations set forth in Section 30-710.4.

(Code 1993, § 32-900.6; Code 2004, § 114-900.6; Code 2015, § 30-900.6; Ord. No. 2009-37-50, § 1, 4-13-2009)

DIVISION 2. ESTABLISHMENT OF PARKING OVERLAY DISTRICTS

Sec. 30-910. Scope of division.

The sections of this division shall become effective in areas specified and on dates indicated.

(Code 1993, § 32-910; Code 2004, § 114-910; Code 2015, § 30-910)

Sec. 30-910.1. Grove/Libbie Parking Overlay District PO-1.

(a) On April 1, 1992, this division shall become effective in the Grove/Libbie PO-1 District. The boundaries of such district are as follows:

Beginning at the intersection of the centerlines of Grove Avenue and Granite Avenue; thence extending 233.9 feet in a southerly direction along the centerline of Granite Avenue to a point; thence extending 125 feet in a westerly direction along a line perpendicular to the west line of Granite Avenue to a point; thence extending 70 feet in a southerly direction along a line parallel to the west line of Granite Avenue to a point; thence extending 105 feet in a westerly direction along a line perpendicular to the west line of Granite Avenue to the centerline of a 20-foot-wide north/south public alley located in the block bounded by Grove Avenue, Granite Avenue, Matoaka Road and Libbie Avenue; thence extending 77 feet in a southerly direction along the centerline of such alley to a point; thence extending 225 feet in a westerly direction along a line of bearing N 76° 07' 36" W to the centerline of Libbie Avenue; thence extending 13.08 feet in a northerly direction along the centerline of Libbie Avenue to a point; thence extending 70 feet in a westerly direction along the centerline of a 20-foot-wide easement (N 69° 21' 30" W) to a point; thence continuing 121.77 feet in a westerly direction along the centerline of such easement (N 83° 01' 50" W) to a point; thence extending 53.55 feet in a southerly direction along a line of bearing S 18° 48' 40" W to a point; thence extending 145 feet in a westerly direction

along a line of bearing N 54° 45' 50" W to the centerline of Maple Avenue; thence extending 393 feet, more or less, in a northerly direction along the centerline of Maple Avenue to a point; thence extending 91 feet in an easterly direction along a line of bearing N 87° 11' 29" E to a point; thence extending 64.00 feet in an easterly direction along a line of bearing N 86° 42' 05" E to a point; thence extending 616.17 feet in a northerly direction across York Road, along a line of bearing N 09° 05' 25" E to a point; thence extending 390.43 feet in an easterly direction across Libbie Avenue along a line of bearing S 76° 08' E to a point; thence extending 48.65 feet in a southerly direction along a line of bearing S 13° 52' W to a point; thence extending 140.92 feet in an easterly direction along a line of bearing N 86° 30' 40" E to a point; thence extending 388.63 feet in a southerly direction along a line of bearing S 13° 35' 56" W to a point; thence extending 148.78 feet in an easterly direction along a line of bearing S 76° 32' 04" E to the centerline of Granite Avenue; thence extending 213.45 feet in a southerly direction along the centerline of Granite Avenue to the point of beginning.

(b) The minimum number of off-street parking spaces required for uses located in the PO-1 district shall be as follows:

(1) Retail stores and shops, shopping centers, food stores, personal service and other service businesses, banks and savings and loan offices, and similar businesses: one space per 330 square feet of floor area;

(2) Restaurants, theaters, amusement centers, lodges and clubs, and similar uses: one space per 170 square feet of floor area;

(3) Offices, including medical and dental offices and clinics: one space per 330 square feet for the first 1,500 square feet of floor area, plus one space per 590 square feet of floor area in excess thereof; and

(4) Furniture, carpet, appliance, hardware or home improvement stores; clothing, shoe or other repair shops; and similar uses: one space per 750 square feet of floor area.

(Code 1993, § 32-910.1; Code 2004, § 114-910.1; Code 2015, § 30-910.1)

Sec. 30-910.2. Carytown Parking Overlay District PO-2.

(a) On the date of adoption, this division shall become effective in the Carytown PO-2 District. The boundaries of such district are as follows:

Beginning at a point on the centerline of Nansemond Street, such point being 130 feet south of the south line of West Cary Street; thence extending 439 feet, more or less, in a northerly direction along the centerline of Nansemond Street to a point; thence extending 25 feet in an easterly direction to the centerline of an east/west alley, such alley being located 100 feet south of the south line of Ellwood Avenue and varying in width between 17.38 feet and 18.38 feet; thence extending 343 feet, more or less, in an easterly direction along the centerline of such alley to a point; thence extending 8.69 feet in a southerly direction to the south line of such alley; thence extending 100 feet, more or less, in an easterly direction along an extension of the south line of such alley to the centerline of Crenshaw Avenue; thence extending 19.9 feet in an easterly direction from the centerline of Crenshaw Avenue to the centerline of a 15-foot-wide east/west alley, such alley being located 135 feet south of the south line of Ellwood Avenue; thence extending 410 feet, more or less, in an easterly direction along the centerline of such alley to the centerline of Dooley Avenue; thence extending 25 feet, more or less, in an easterly direction to the centerline of a 15-foot-wide east/west alley, such alley being located 135 feet south of the south line of Ellwood Avenue; thence extending 160 feet in an easterly direction along the centerline of such alley to a point; thence extending 65.5 feet in a northerly direction along a line parallel to and 160 feet east of the east line of Dooley Avenue to a point; thence extending 245 feet in an easterly direction along a line parallel to and 77 feet south of the south line of Ellwood Avenue to the centerline of Auburn Avenue; thence extending 45.5 feet in a southerly direction along the centerline of Auburn Avenue to a point; thence extending 25 feet in an easterly direction to the centerline of a 15-foot-wide east/west alley, such alley being located 115 feet south of the south line of Ellwood Avenue; thence extending 450.4 feet in an easterly direction along the centerline of such alley to the eastern terminus of such alley; thence continuing 291 feet in an easterly direction along an extension of the centerline of such alley to the centerline of Belmont Avenue; thence extending 51 feet in a northerly direction along the centerline of Belmont Avenue to a point; thence extending 65 feet in an easterly direction along a line parallel to and 79 feet south of Ellwood Avenue to a point; thence extending 53.97 feet in a southerly direction along a line parallel to and 65 feet east of the east line of Belmont Avenue to the centerline of an 18-foot-wide east/west alley, such alley being located 120 feet

south of the south line of Ellwood Avenue; thence extending 192 feet in an easterly direction along the centerline of such alley to the eastern terminus of such alley; thence extending 15 feet in a northerly direction along a line parallel to and 100 feet west of the west line of Sheppard Street to a point; thence extending 125 feet in an easterly direction along a line parallel to and 115 feet south of the south line of Ellwood Avenue to the centerline of Sheppard Street; thence extending 26.71 feet in a southerly direction along the centerline of Sheppard Street to a point; thence extending 25 feet in an easterly direction to the centerline of a 13.42-foot-wide east/west alley, such alley being located 135 feet south of the south line of Ellwood Avenue; thence extending 366.28 feet in an easterly direction along the centerline of such alley to the centerline of Colonial Avenue; thence extending 25 feet in an easterly direction to the centerline of a 14.99-foot-wide east/west alley, such alley being located 130.16 feet south of the south line of Ellwood Avenue; thence extending 185.84 feet in an easterly direction along the centerline of such alley to a point; thence extending 272.5 feet in a southerly direction along a line parallel to and 185.84 feet east of the east line of Colonial Avenue to the centerline of West Cary Street; thence extending 51.15 feet in an easterly direction along the centerline of West Cary Street to a point; thence extending 30 feet in a southerly direction to the centerline of a 15-foot-wide north/south alley, such alley being 120 feet west of the west line of the Boulevard; thence extending 37.5 feet in a southerly direction along the centerline of such alley to a point; thence extending 163.5 feet in a westerly direction along a line parallel to the south line of West Cary Street to the centerline of Colonial Avenue; thence extending 12.5 feet in a southerly direction along the centerline of Colonial Avenue to a point; thence extending 148.15 feet in a westerly direction along a line parallel to and 50 feet south of the south line of West Cary Street to the centerline of a ten-foot-wide north/south alley, such alley being 107.15 feet west of the west line of Colonial Avenue; thence extending 79.02 feet in a southerly direction along the centerline of such alley to the centerline of an 18-foot-wide east/west alley, such alley being 120 feet south of the south line of West Cary Street; thence extending 2,760 feet, more or less, in a westerly direction along the centerline of such alley to the point of beginning.

(b) The minimum number of off-street parking spaces required for uses located in the PO-2 district shall be as follows:

(1) Retail stores and shops, shopping centers, restaurants, food stores, personal service and other service businesses, banks and savings and loan offices, and similar businesses: one space per 430 square feet of floor area;

(2) Theaters, amusement centers, lodges and clubs, and similar uses: one space per 210 square feet of floor area;

(3) Offices, including medical and dental offices and clinics: one space per 430 square feet for the first 1,500 square feet of floor area, plus one space per 770 square feet of floor area in excess thereof; and

(4) Furniture, carpet, appliance, hardware or home improvement stores; clothing, shoe or other repair shops; and similar uses: one space per 1,070 square feet of floor area.

(c) In the case of required spaces located off the premises, the provisions of Section 30-710.4 shall be applicable in the PO-2 district, except as follows:

(1) Off-street parking spaces required for any nondwelling use may be provided off the premises within a 500-foot radius of a principal entrance to the building occupied by such use. In all cases, property used for such parking shall be located in a district where parking areas serving the proposed use are permitted.

(2) Where parking spaces required by this division are located on property other than that occupied by the use for which such spaces are required, the property shall be held in fee simple by the owner of the use involved or in such other tenure as assures continued availability for such. When the tenure is other than ownership in fee simple, the tenure shall not be less than one year, and the form and terms of tenure shall be approved by the City Attorney before a certificate of use and occupancy or a certificate of zoning compliance may be issued. When use of property for parking purposes is discontinued, the Zoning Administrator shall be notified, by both the lessor and the lessee, in writing, a minimum of 30 days prior to the discontinuance, and unless the parking spaces located thereon are no longer required by this division, such spaces shall be provided elsewhere in compliance with this division.

(3) The requirements set forth in Section 30-710.4(5) and pertaining to identification of off-premises parking

spaces, areas or lots and notification on the premises of the use or uses for which the parking is provided shall not be applicable in the PO-2 district.

(Code 1993, § 32-910.2; Code 2004, § 114-910.2; Code 2015, § 30-910.2; Ord. No. 2009-37-50, § 1, 4-13-2009)

Sec. 30-910.3. Main Street/Uptown Parking Overlay District PO-3.

(a) This division shall be effective in the Main Street/Uptown PO-3 District. The boundaries of such district are as shown on the official zoning map.

(b) The minimum number of off-street parking spaces required for uses located in the PO-3 district shall be as follows:

(1) Retail stores and shops, shopping centers, food stores, personal service and other service businesses, banks and savings and loan offices, and similar businesses: one space per 540 square feet of floor area;

(2) Restaurants, theaters, amusement centers, lodges and clubs, and similar uses: one space per 270 square feet of floor area;

(3) Offices, including medical and dental offices and clinics: one space per 540 square feet for the first 1,500 square feet of floor area, plus one space per 970 square feet of floor area in excess thereof; and

(4) Furniture, carpet, appliance, hardware or home improvement stores; clothing, shoe or other repair shops; and similar uses: one space per 1,350 square feet of floor area.

(Code 1993, § 32-910.3; Code 2004, § 114-910.3; Code 2015, § 30-910.3; Ord. No. 2007-188-164, § 1, 7-23-2007; Ord. No. 2015-100-112, § 1, 5-26-2015)

Sec. 30-910.4. West Broad Street Parking Overlay District PO-4.

(a) This division shall become effective in the West Broad Street PO-4 District. The boundaries of such district are as follows:

Beginning at the intersection of the centerline of North Boulevard and the centerline of West Broad Street; thence extending 6,469 feet, more or less, in an easterly direction along the centerline of West Broad Street to the centerline of North Harrison Street; thence extending 208.7 feet, more or less, in a southerly direction along the centerline of North Harrison Street to the centerline of a 21.3-foot-wide east/west alley; thence extending 275.6 feet, more or less, in a westerly direction along the centerline of such alley to the terminus of such alley; thence continuing 255.6 feet, more or less, in a westerly direction along the extension of the centerline of such alley to the centerline of Ryland Street; thence extending 20.7 feet, more or less, in a northerly direction along the centerline of Ryland Street to the centerline of an 18-foot-wide east/west alley; thence extending 5,888 feet, more or less, in a westerly direction along the centerline of such alley to the centerline of North Boulevard; thence extending 201.9 feet, more or less, in a northerly direction along the centerline of North Boulevard to the point of beginning.

(b) The minimum number of off-street parking spaces required for uses located in the PO-4 district shall be as follows:

(1) Retail stores and shops, shopping centers, food stores, personal service and other service businesses, banks and savings and loan offices, and similar businesses: one space per 330 square feet of floor area.

(2) Restaurants, theaters, amusement centers, lodges and clubs, and similar uses: one space per 170 square feet of floor area.

(3) Offices, including medical and dental offices and clinics: one space per 330 square feet for the first 1,500 square feet of floor area, plus one space per 590 square feet of floor area in excess thereof.

(4) Furniture, carpet, appliance, hardware or home improvement stores; clothing, shoe or other repair shops; and similar uses: one space per 830 square feet of floor area.

(Code 1993, § 32-910.4; Code 2004, § 114-910.4; Code 2015, § 30-910.4)

Sec. 30-910.5. Reserved.

Editor's note—Ord. No. 2015-200-196, § 1, adopted Oct. 12, 2015, repealed § 30-910.5, which pertained to Brookland Park

Boulevard/North Avenue Parking Overlay District PO-5, and derived from Code 1993, § 32-910.5; Code 2004, § 114-910.5.

DIVISION 3. RESERVED*

***Editor's note—**Ord. No. 2004-333-323, § 2, adopted December 13, 2004 and effective January 1, 2005, repealed Code 2004, §§ 114-920—114-920.17, which pertained to Chesapeake Bay Preservation Areas and derived from Code 1993, §§ 32-920—32-920.17.

Secs. 30-920—30-920.17. Reserved.

DIVISION 4. OLD AND HISTORIC DISTRICTS

Sec. 30-930. Applicability of division.

This division shall apply generally to designated old and historic districts for the purpose of preserving the unique historic and architectural character of such districts through the review of applications for certificates of appropriateness.

(Code 1993, § 32-930; Code 2004, § 114-930; Code 2015, § 30-930)

Sec. 30-930.1. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any change, modification or addition to the structure, materials, color, texture or details of all or a part of the exterior of any building, structure, or site other than normal repair, maintenance, and landscaping.

Certificate of appropriateness means the approval statement issued by the Commission of Architectural Review and signed by its Secretary which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building, structure or site within an old and historic district and which is subject to all other permits required by law.

Demolition means the dismantling or tearing down of all or a part of any building or structure and all operations, including grading, incidental thereto.

Exterior architectural features means the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color; the kind and texture of the building material; the type and style of all windows, doors, light fixtures, signs, decorative features; and other appurtenances that are subject to public view.

Historic means that which pertains to periods of development, events, persons, and activities of importance in the history of the City, the Commonwealth, or the United States of America.

Historic resources means such buildings, objects, structures, neighborhoods, sites or areas within the City that are either designated as or eligible for designation as old and historic districts.

Major plantings means any substantial existing or proposed plant material, including, but not limited to, trees or shrubs with trunks greater than three inches in diameter or eight feet in height and hedgerows exceeding ten feet in length.

New construction means any construction within an old and historic district which is independent of an existing structure or an expansion of an existing structure.

Normal repair and maintenance means any work involving the replacement of existing work with equivalent material, design, color, and workmanship for the purpose of maintaining the existing condition of the building, structure or site.

Old and historic district means any portion of the City designated in accordance with this division and subject to the review of the Commission of Architectural Review.

Public view means that which is visible from a public right-of-way or public place.

Site means any parcel of unimproved property, a parking lot or a park within an old and historic district.

Site improvements means structural changes to the grounds of a property, including the installation or

alteration of walls, fences, or structures; paving; regrading; and the installation or removal of major plantings.

Substantial impact means changes that involve partial or total demolition, new construction, the expansion of an existing building or structure, or the modification of any public building or public right-of-way.

(Code 1993, § 32-930.1; Code 2004, § 114-930.1; Code 2015, § 30-930.1)

Cross reference—Definitions generally, § 1-2.

Sec. 30-930.2. Purpose.

The purpose of creating old and historic districts is to provide a means by which the City Council may recognize and protect the historic, architectural, cultural, and artistic heritage of the City. This process of historic preservation is a part of the promotion of the general welfare and the protection of community health and public safety of the City through the identification, preservation and enhancement of buildings, structures, landscapes, settings, neighborhoods, sites and features with special historic, cultural, artistic, and architectural significance. To achieve this general purpose, the City seeks to pursue the following specific purposes:

(1) The identification, designation, and protection of historic resources throughout the City.

(2) The promotion of harmony of style, form, color, proportion, texture and material between buildings of historic design and those of more modern design.

(3) The recognition and protection of appropriate settings and environments for historic districts, buildings, structures and sites.

(4) The enhancement of the quality of life for residents and the providing of attractions to visitors by preserving the historic resources of the City.

(5) The education of residents and visitors about the City's historic resources.

(6) The incorporation of historic preservation into the permit review process of the City.

(Code 1993, § 32-930.2; Code 2004, § 114-930.2; Code 2015, § 30-930.2)

Sec. 30-930.3. Commission of Architectural Review.

(a) *Established*. There is hereby created and established a Commission of Architectural Review, referred to in this division as the "commission."

(b) *Composition; terms of office; compensation*. The Commission of Architectural Review shall consist of nine members, one of whom shall be a resident of a City Old and Historic District. The members shall be appointed by the City Council for terms of office of three years from the date of appointment. The provisions of Section 2-767 shall be applicable to all members of the commission. Appointments to the commission shall be as follows:

(1) One shall be appointed from a list of at least three nominees submitted by the Richmond Chapter of the American Institute of Architects;

(2) One shall be appointed from a list of at least three nominees submitted by the Historic Richmond Foundation;

(3) One shall be appointed from a list of at least three nominees submitted by the Richmond Association of Realtors; and

(4) Six shall be citizens of the City appointed at large.

Vacancies on the Commission shall be filled in the same manner. One of the at-large members shall serve a concurrent term on the Urban Design Committee of the Planning Commission. No officer or employee of any organization that may nominate candidates for appointment to the Commission shall be appointed as a member of the Commission. For members appointed at large, any individual, preservation organization, professional organization, or civic group may nominate individuals to serve on the Commission. The members of the Commission shall serve as such without compensation.

(c) *Secretary*. The Director of the Department of Planning and Development Review shall appoint a Secretary for the Commission of Architectural Review, who shall be a qualified employee of that Department. The Secretary shall keep a record of all resolutions, proceedings and actions of the Commission.

(d) *Responsibilities and duties*. The Commission of Architectural Review shall have the power and authority to issue or deny certificates of appropriateness for construction, alteration, reconstruction, repair, restoration, or demolition within any old and historic districts. In addition, the Commission shall have the duty to:

(1) Hold regular meetings for consideration of certificates of appropriateness and other meetings as needed to carry out the responsibilities set forth in this section.

(2) Assist and advise the City Council, the Mayor, the Chief Administrative Officer, the Planning Commission, the Board of Zoning Appeals, property owners and individuals in matters involving historic resources relating to appropriate land use, zoning, and other issues.

(3) Maintain documentation on historic resources throughout the City.

(4) Undertake studies for the Planning Commission and the City Council on historic resources of the City for the master plan and other planning efforts.

(5) Document and recommend to the Planning Commission and City Council the creation and amendment of old and historic districts.

(6) Adopt architectural guidelines and architectural standards applicable to properties located in old and historic districts.

(7) Adopt guidelines for the delegation to the secretary of the review and approval of applications for certificates of appropriateness.

(8) Sponsor educational and informational activities, which publicize historic preservation efforts which include, but are not limited to, speaking engagements, publications, press releases, and audio and visual presentations.

(9) Investigate and recommend districts, buildings, structures, and sites of historic, architectural or cultural importance to the City, the Commonwealth, or the United States of America which should be preserved and protected and report on these historic resources to the Mayor, Chief Administrative Officer, City Council or Planning Commission.

(e) *Rules of procedure*. The Commission of Architectural Review shall be authorized to adopt rules of procedure for the transaction of its business and implementation of the purposes of this division. The rules of procedure shall not conflict with this division.

(Code 1993, § 32-930.3; Code 2004, § 114-930.3; Code 2015, § 30-930.3; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2010-185-198, § 1, 11-22-2010; Ord. No. 2014-73-53, § 1, 4-28-2014; Ord. No. 2017-243, § 1, 1-8-2018)

Cross reference—Boards, commissions, committees and other agencies, § 2-767 et seq.

Sec. 30-930.4. Process for establishment and regulation.

(a) *Scope.* There may be created in the City certain districts to be known as old and historic districts, which are referred to as such in this division and which shall be an overlay to the other zoning districts into which the City is divided. The boundaries of any districts created shall be shown on the official zoning map on file with the Department of Planning and Development Review, as such may be amended from time to time by the City Council, which map is incorporated in this division by reference and made a part of this division. Materials documenting the process of establishing an old and historic district shall be kept in the files of the Department of Planning and Development Review. The adoption, amendment or repeal of any boundaries of such old and historic districts shall comply with and be subject to all procedures and criteria set forth in the Charter applicable to the adoption, amendment or repeal of the comprehensive zoning ordinance.

(b) *Process for creation of districts.* As the Commission of Architectural Review undertakes the evaluation of historic resources in the City, it may deem it appropriate to initiate the establishment of additional old and historic districts. Any individual or organization may request that the Commission initiate the review of a potential old and historic district. The review of a proposed old and historic district shall be at the discretion of the Commission. However, it shall be undertaken automatically upon introduction of a paper proposing the establishment of a new old and historic district by the Mayor or by a member of the City Council. To begin the review process of a proposed

old and historic district, the Commission shall pass a resolution instructing the Secretary to begin administration of the review process.

(c) *Commission review; public hearing.* To begin the review process for the creation of an old and historic district, the Commission of Architectural Review shall hold a public hearing with notice to all property owners within the proposed old and historic district boundary and all owners of all property, any part of which lies within 150 feet of the proposed district. Notice of the public hearing shall be published twice in a daily newspaper of general circulation in the City. The first notice shall be published not less than 14 days prior to the date of such hearing; the second shall be published not less than seven days prior to the date of the hearing. In addition, the establishment of an old and historic district shall follow the procedures set forth in Article XI of this chapter. The Commission may choose to set forth additional procedures for the review of old and historic districts in its rules of procedure.

(d) *Criteria for establishment of additional districts.* The following criteria shall be used by the Commission of Architectural Review in evaluating potential old and historic districts. The Commission may recommend a neighborhood, district, building, structure or site for designation as an old and historic district, if it meets one or more of the following criteria:

(1) It has significant character, interest or value as a part of the historic development of the City.

(2) It is the site of a historic event which had a significant impact on the history of the City.

(3) It exemplifies the architectural, cultural, economic, social, political, artistic, or religious history of the City.

(4) It portrays the architectural character of a particular era in the history of the City.

(5) It is a rare example of a building built for a particular purpose, a type or form of building, a particular architectural style, or a form of engineering.

(6) It is the work of a designer or craftsman whose individual work has significantly impacted the City, the Commonwealth, or the United States of America.

(7) It contains elements of design, detail, material or craftsmanship that represent a significant innovation for its time period.

(8) It is related to a park, street configuration, open space, hill, body of water, or landscaped grounds of significance in the areas of urban planning or landscape architecture.

(9) It constitutes a landmark of the City, owing to its unique location or unusual physical characteristics.

(10) It is contiguous with a neighborhood, district, building, structure, or site that meets one or more of the criteria in subsections (d)(1) through (9) of this section, and changes to it could impact the neighborhood, district, building, structure or site that meets such criteria.

All old and historic districts created prior to the adoption of the ordinance from which this section is derived shall be deemed to meet one or more of these criteria.

(e) *Relation to other districts.* Old and historic districts shall be in addition to the underlying zoning and shall be applied so as to overlay and be superimposed on such other zoning districts as permitted by this chapter and shown on the official zoning map. Any property lying within an old and historic district shall also lie within one or more of such other zoning districts, which shall be known as underlying districts.

(f) *Application of district regulations.* Each old and historic district is established to create a certificate of appropriateness review process as provided in this section. In all other respects, the regulations normally applicable within the underlying zoning district shall apply to property within the boundaries of the old and historic district.

(Code 1993, § 32-930.4; Code 2004, § 114-930.4; Code 2015, § 30-930.4; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-930.5. Establishment of particular old and historic districts.

The provisions of this division shall be applicable within the following districts, which are hereby established and designated as old and historic districts.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5; Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:1. The Barret House Old and Historic District (15 South Fifth Street).

The boundaries of such district are as follows: beginning at the intersection of the east line of South Fifth Street and the north line of East Cary Street; thence in a northerly direction along the east line of South Fifth Street 82.5 feet more or less to a point; thence in a easterly direction along a line parallel with the north line of East Cary Street 130 feet more or less to the west line of a north-south alley between South Fifth Street and South Sixth Street; thence in a southerly direction 82.5 feet more or less along said line to the north line of East Cary Street; thence in a westerly direction 130 feet more or less along the north line of East Cary Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(1); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:2. Belgian Building Old and Historic District (Lombardy Street and Brook Road).

The boundaries of such district are as follows: beginning at the intersection of the northwest line of North Lombardy Street and the west line of Brook Road; thence in a southwesterly direction along North Lombardy Street 550 feet to a point; thence in a northwesterly direction along a line 400 feet more or less to a point; thence in a northeasterly direction along a line parallel to North Lombardy Street 750 feet to the south line of West Graham Road; thence in an easterly direction along the south line of West Graham Road to its intersection with the west line of Brook Road; thence in a southerly direction along the west line of Brook Road to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(2); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:3. Bolling Haxall House Old and Historic District (211 East Franklin Street).

The boundaries of such district are as follows: beginning on the south line of East Franklin Street at a point 52.5 feet more or less west of the west line of North Third Street; thence extending in a westerly direction along the south line of East Franklin Street 76.75 feet more or less to the western property line of parcel W000-0047-006 (as assigned by the Assessor of the City, as of February 24, 1975, for tax purposes); thence in a southerly direction along said property line 207.67 feet more or less to the north line of an alley; thence in an easterly direction along said line 59.25 feet more or less to the eastern property line of parcel W000-0047-006; thence in a northerly direction along said property line as it meanders to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(3); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:4. Boulevard Old and Historic District.

The boundaries of such district are as follows: beginning at a point on the north line of Idlewood Avenue 145 feet more or less east of its intersection with the east line of South Boulevard (point A as shown on a map of the Boulevard Old and Historic District on file in the City of Richmond Department of Planning and Development Review, which shows the parcels as designated by the Assessor of the City, as of May 11, 1992, for tax purposes); thence in a northerly direction 100 feet more or less to point B on the east line of a 14-foot north-south alley; thence in a northerly direction along the east line of said alley to point C; thence across Grayland Avenue to its intersection with the east line of a 15-foot north-south alley (point D) and extending the length of the block 258.28 feet more or less to point E; thence in a northerly direction across Parkwood Avenue to its intersection with the east line of a 15-foot north-south alley (point F) and extending the length of the block 259.95 feet more or less to point G; thence in a northerly direction across West Cary Street to its intersection with the east line of a 15-foot north-south alley (point H) and extending the length of the block 379.90 feet more or less to point I; thence in a northerly direction

across West Main Street to its intersection with the east line of a 14.17-foot north-south alley (point J) and extending the length of the block 381.43 feet more or less to point K; thence in a northerly direction across Floyd Avenue to its intersection with the east line of a 14-foot north-south alley (point L) and extending 246.63 feet more or less to point M; thence in a westerly direction along the north line of a 15-foot east-west alley to its terminus 54.24 feet more or less (point N); thence in a northerly direction along a line 135 feet more or less to point O; thence in a northerly direction across Grove Avenue to a point 100 feet more or less east of the intersection of the east line of North Boulevard with the north line of Grove Avenue (point P); thence in a northerly direction along rear property lines 199.5 feet more or less to point Q; thence in an easterly direction 70 feet more or less to the east line of a 20-foot north-south alley (point R); thence in a northerly direction to a point 100 feet more or less south of the south line of Hanover Avenue (point S); thence in a westerly direction across the 20-foot north-south alley and along the south line of a 19-foot east-west alley-in-common 44 feet more or less to point T; thence in a northerly direction 36 feet more or less to point U; thence in an easterly direction five feet more or less to point V; thence in a northerly direction 27 feet more or less to point W; thence in an easterly direction six feet more or less to point X; thence in a northerly direction 37 feet more or less along a rear property line to its intersection with the south line of Hanover Avenue (point Y); thence across Hanover Avenue to the west line of a private alley 67.92 feet more or less east of the east line of North Boulevard (point Z); thence in a northerly direction along the west line of said private alley 81.50 feet more or less to point A1; thence in an easterly direction along rear property lines 82.08 feet more or less to a 20-foot north-south alley (point B1); thence in an easterly direction across said alley to its east line (point C1); thence in a northerly direction along said alley extending the length of the block 298 feet more or less to point D1; thence in a northerly direction across Stuart Avenue to a point 85 feet more or less east of the east line of North Boulevard (point E1); thence in a northerly direction 54.50 feet more or less to point F1; thence in an easterly direction 85 feet more or less to the east line of a 20-foot north-south alley (point G1); thence in a northerly direction along said alley extending the length of the block 324.98 feet more or less to point H1; thence in a northerly direction across Kensington Avenue to its intersection with the east line of a 20-foot north-south alley (point I1) and extending the length of the block 375.07 feet more or less to point J1; thence in a northerly direction across Park Avenue to point K1; thence in a westerly direction along the north line of Park Avenue to its intersection with the east line of North Boulevard (point L1); thence in a northerly direction extending the length of the block 294.03 feet more or less to point M1; thence in a northerly direction across Monument Avenue to point N1; thence continuing in a northerly direction along the east line of North Boulevard 149 feet more or less to point O1; thence in an easterly direction along the south line of a 15.58-foot east-west alley 88.97 feet more or less to point P1; thence in a northerly direction across said alley to its intersection with the west line of a ten-foot north-south private alley (point Q1); thence in a northerly direction 57.5 feet more or less along the west line of said private alley to point R1; thence in a westerly direction ten feet more or less along the south line of said alley to point S1; thence in a northerly direction along a property line 72.5 feet more or less to point T1; thence in a northerly direction across West Grace Street to point U1, said point being 71.67 feet more or less east of the east line of North Boulevard; thence in a northerly direction along rear property lines 145 feet more or less to the south line of a 20.72-foot east-west alley (point V1); thence in a northerly direction across said alley to point W1; thence in a westerly direction along the north line of said alley to its intersection with the east line of North Boulevard (point X1); thence in a westerly direction across North Boulevard to a point 121.83 feet more or less south of the south line of West Broad Street (point Y1); thence in a westerly direction 165.33 feet more or less along a property line extended to the west line of a 15.33-foot north-south alley (point Z1); thence in a southerly direction along said alley to a point 90 feet more or less north of the north line of West Grace Street (point A2); thence in an easterly direction across the alley 65.33 feet more or less to the east line of a north-south private alley (point B2); thence in a southerly direction along a property line to its intersection with the north line of West Grace Street (point C2); thence in a southerly direction across West Grace Street to the west line of an 11-foot north-south alley (point D2); thence in a southerly direction along the west line of said alley to its intersection with a 15.40-foot east-west alley (point E2); thence across said alley to point F2; thence in a southerly direction 45.31 feet more or less along a rear property line to point G2; thence in an easterly direction along a south property line to its intersection with the west line of North Boulevard (point H2); thence in a southerly direction 87 feet more or less along the west line of North Boulevard to its intersection with the north line of Monument Avenue (point I2); thence in a southerly direction across Monument Avenue to point J2; thence in a westerly direction along the south line of Monument Avenue to the west line of a 15.33-foot north-south alley (point K2); thence in a southerly direction along the west line of said alley to a point 75 feet more or less north of said alley's intersection with the north line of Park Avenue (point L2); thence in an easterly direction across said

alley to point M2 and along a rear property line to the east line of a private north-south alley (point N2); thence in a southerly direction along said alley to its intersection with the north line of Park Avenue (point O2); thence in a westerly direction along the north line of Park Avenue to its intersection with the west line of North Colonial Avenue (point P2); thence in a southerly direction along the west line of North Colonial Avenue to its intersection with the south line of Patterson Avenue (point Q2); thence in an easterly direction along the south line of Patterson Avenue to the west line of a 15-foot north-south alley (point R2); thence in a southerly direction along the west line of said alley extending the length of the block, 379.5 feet more or less to point S2; thence in a westerly direction along the north line of Kensington Avenue to its intersection with the west line of North Sheppard Street (point T2); thence in a southerly direction along the west line of North Sheppard Street to its intersection with the south line of Grove Avenue (point U2); thence in an easterly direction along the south line of Grove Avenue to a point 106.50 feet more or less west of the west line of North Boulevard (point V2); thence in a southerly direction 160.02 feet more or less to point W2; thence in a westerly direction 38.60 feet more or less to the east line of a 40-foot north-south alley (point X2); thence in a westerly direction across said alley to point Y2; thence in a southerly direction along the west line of said alley to its intersection with the south line of a 14.94-foot east-west alley (point Z2); thence in an easterly direction along the south line of said alley to its intersection with the west line of a 15-foot north-south alley (point A3); thence in a southerly direction along the west line of said 15-foot alley to its intersection with the north line of Floyd Avenue (point B3); thence in a southerly direction across Floyd Avenue to point C3; thence in an easterly direction along the south line of Floyd Avenue to a point 110 feet more or less west of the west line of North Boulevard (point D3); thence in a southerly direction 60 feet more or less to point E3; thence in a westerly direction 40 feet more or less across rear property lines to its intersection with the east line of a 15-foot north-south alley (point F3); thence in a westerly direction across said alley to point G3; thence in a southerly direction along the west line of said 15-foot alley extended to the next 15-foot north-south alley in the same block and to its intersection with the north line of Ellwood Avenue (point H3); thence in a southerly direction across Ellwood Avenue to point I3; thence in a southerly direction along the west line of a 15-foot north-south alley to point J3; thence in a southerly direction to point K3; thence in a southerly direction along the west line of a 20.04-foot north-south alley to a point 66.67 feet more or less north of the north line of West Cary Street (point L3); thence in an easterly direction across said alley to point M3; thence in an easterly direction 42 feet more or less along a rear property line to point N3; thence in a southerly direction 66.67 feet more or less to its intersection with the north line of West Cary Street (point O3); thence in a southerly direction across West Cary Street to its intersection with the west line of a 15-foot north-south alley (point P3); thence in a southerly direction along the west line of said alley and extending the length of the block 873.98 feet more or less to its intersection with the north line of Idlewood Avenue (point Q3); thence in an easterly direction along the north line of Idlewood Avenue 372.37 feet more or less to point A, the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(4); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:5. Broad Street Old and Historic District.

The boundaries of such district are as follows: beginning at the intersection of the west line of North First Street and the south line of East Broad Street, thence in a southerly direction along the west line of North First Street to the south line of the easternmost east-west alley that extends from North First Street between East Broad Street and East Grace Street; thence in a westerly direction along said line extended and the south line of the east-west alley that extends from North Foushee Street as it meanders to the east line of North Foushee Street; thence in a westerly direction along said line to the east line of North Belvidere Street; thence in a northerly direction along the east line of North Belvidere Street to the north line of an east-west alley extended between West/East Marshall Street and West/East Broad Street; thence in an easterly direction along said extended line to the west line of North First Street; thence in a southerly direction along the west line of North First Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(5); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:6. Centenary United Methodist Church Old and Historic District (409 East Grace Street).

The boundaries of such district are as follows: beginning at a point on the south line of East Grace Street, said point being 52.21 feet more or less west of the west line of North Fifth Street; thence in a southerly direction along a line 121.5 feet more or less to the north line of an east-west alley between East Grace Street and East Franklin Street; thence in a westerly direction along said line 78 feet more or less to the west line of a north-south alley between North Fifth Street and North Fourth Street; thence 40.58 feet more or less in a southerly direction along said line to a point on the south property line of parcel W000-024-004 (as assigned by the Assessor of the City, as of February 24, 1975, for tax purposes); thence 44.67 feet more or less in a westerly direction along said property line to a point on the west property line of said parcel; thence in a northerly direction along said property line 162.08 feet more or less to the south line of East Grace Street; thence 121.67 feet more or less in an easterly direction along the south line of East Grace Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(6); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:7. Chimborazo Park Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the west line of North Thirty-Second Street and the south line of East Marshall Street; thence in a southerly direction along the west line of North Thirty-Second Street to the north line of East Grace Street; thence in a southerly direction along the western edge of the westernmost roadway in Chimborazo Park 400 feet more or less to a point; thence in a southwesterly direction 150 feet more or less to a point 100 feet above sea level, said point also being on a line 700 feet more or less from the park roadway to the intersection of the south line of Libby Terrace and the west line of North Thirty-First Street; thence along the 100-foot contour line as it meanders to the intersection of said 100-foot contour line and the north line of Government Road; thence along the north line of Government Road to a point, said point being at the east property line extended of parcel E000-1290-016 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes); thence in a northerly direction along said line projected and along the west property line of parcel E000-1288-008 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes); thence in a northerly direction along said property line and the east property lines of the following parcels: E000-1288-010, E000-1288-011 and E000-1288-006 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes) to the south line of East Marshall Street, said point being 296 feet more or less east of the east line of North Thirty-Sixth Street; thence in a westerly direction along the south line of East Marshall Street to the west line of North Thirty-Fifth Street; thence in a northerly direction along the west line of North Thirty-Fifth Street to the south line of the southernmost east-west alley between East Marshall Street and East Clay Street; thence in a westerly direction along said line to the east line of Chimborazo Boulevard; thence in a southerly direction along the east line of Chimborazo Boulevard 39 feet more or less to the north property line extended of parcel E000-0884-014 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes); thence in a westerly direction along said property line extended, said line being 120 feet more or less from the north line of East Marshall Street and continuing along the south line of an east-west alley between East Marshall Street and East Clay Street to the east line of North Thirty-Third Street; thence in a southerly direction along the east line of North Thirty-Third Street to the south line of East Marshall Street; thence in a westerly direction along the south line of East Marshall Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(7); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:8. Church Hill North Old and Historic District.

The boundaries of such district are as follows: Beginning at the point of intersection of the east right-of-way line of N. 21st Street and the south right-of-way line of the southernmost east-west alley between E. Marshall Street and E. Broad Street; thence in a northerly direction along said west right-of-way line to the southeast right-of-way line of Jefferson Avenue; thence in a northeasterly direction along said right-of-way line four blocks to the east right-of-way line of N. 25th Street; thence in a northerly direction along said right-of-way line to the south right-

of-way line of Cedar Street; thence in an easterly direction along said right-of-way line two and one half blocks to the east right-of-way line of the north-south alley between N. 27th Street and N. 29th Street; thence in a northerly direction along said right-of-way line to the south right-of-way line of O Street; thence in an easterly direction along said right-of-way line to the west right-of-way line of N. 29th Street; thence in a southerly direction along said right-of-way line to the south right-of-way line of N Street; thence in an easterly direction along said right-of-way line to the west right-of-way line of N. 30th Street; thence in a southerly direction along said right-of-way line to the north right-of-way line of M Street; thence in a westerly direction along said right-of-way line to the east property line extended of parcel E000-0573/001 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence in a southerly direction along said east property line to the south property line of said parcel; thence in a westerly direction along said south property line to the east property line of parcel E000-0573/045 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence in a southerly direction along said east property line and a series of east property lines extended to the north property line of parcel E000-0573/030 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence in an easterly direction along said north property line to the east property line of said parcel; thence in a southerly direction along said east property line extended to the south right-of-way line of E. Leigh Street; thence in a westerly direction along said right-of-way line to the west right-of-way line of a north-south alley between N. 29th Street and N. 30th Street; thence in a southerly direction along said right-of-way line extended to the north right-of-way line of E. Clay Street; thence in a westerly direction along said right-of-way line to the west right-of-way line of N. 29th Street, thence in a southerly direction along said right-of-way line to the south property line extended of parcel E000-0530/013 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence in a westerly direction along said south property line extended, crossing the north-south alley between N. 28th Street and N. 29th Street, to the south property line of parcel E000-0530/032 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence in a westerly direction along said south property line extended, crossing N. 28th Street, to the centerline of the east-west alley between E. Marshall Street and E. Broad Street; thence in a westerly direction along said centerline extended, crossing N. 27th Street, to the south property line of parcel E000-0437/013 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence in a westerly direction along said south property line extended to the centerline of another east-west alley between E. Marshall Street and E. Broad Street; thence in a westerly direction along said centerline extended, crossing N. 26th Street and bisecting parcel E000-0385/006 (as assigned by the Assessor of the City, as of April 4, 2007, for tax purposes); thence continuing in a westerly direction along said centerline extended to the west right-of-way line of N. 25th Street; thence in a northerly direction along said west right-of-way line to the south right-of-way line of E. Marshall Street; thence in a westerly direction along said south right-of-way line to the west right-of-way line of N. 23rd Street; thence in a southerly direction along said west right-of-way line to the north right-of-way line of the east-west alley between E. Marshall Street and E. Broad Street; thence in a westerly direction along said north right-of-way line to the east right-of-way line of N. 22nd Street, thence in a northwesterly direction, crossing N. 22nd Street, to the south right-of-way line of the northernmost east-west alley between E. Marshall Street and E. Broad Street; thence in a westerly direction along said south right-of-way line to the east right-of-way line of the north-south alley between N. 21st Street and N. 22nd Street; thence in a southerly direction along said east right-of-way line to the south right-of-way line of the southernmost east-west alley between E. Marshall Street and E. Broad Street; thence in a westerly direction along said south right-of-way line to the point of beginning. It should be noted that the southern boundary line for the Church Hill North Old and Historic District is contiguous with the northern boundary line for the existing St. John's Church Old and Historic District.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(8); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:9. Crozet House Old and Historic District (100-102 East Main Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of East Main Street and the east line of North First Street; thence in an easterly direction 59 feet more or less to a point; thence in a northerly direction along a line parallel with the east line of North First Street 151.50 feet more or less to the south line of an east-west alley between East Main Street and East Franklin Street; thence in a westerly direction

along said line 59 feet more or less to the east line of North First Street; thence in a southerly direction along the east line of North First Street 151.50 feet more or less to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(9); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:10. Glasgow House Old and Historic District (1 West Main Street).

The boundaries of such district are as follows: beginning at the intersection of the south line of West Main Street and the west line of South Foushee Street; thence extending in a westerly direction along the south line of West Main Street 80 feet more or less to a point; thence in a southerly direction 155.50 feet more or less along a line to the north line of an east-west alley between West Main Street and West Cary Street; thence in an easterly direction 80 feet more or less along said line to the west line of South Foushee Street; thence in a northerly direction 155.50 feet more or less along the west line of South Foushee Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(10); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:11. Hancock-Wirt-Caskie House Old and Historic District (2 North Fifth Street).

The boundaries of such district are as follows: beginning at the intersection of the west line of North Fifth Street and the north line of East Main Street; thence in a northerly direction along the west line of North Fifth Street 83.33 feet more or less to a point; thence in a westerly direction along a line 60.90 feet more or less to a point on the east property line extended of parcel W000-0023-013 (as assigned by the Assessor of the City, as of February 24, 1975, for tax purposes); thence in a southerly direction approximately 83.33 feet more or less along a line to the north line of East Main Street; thence in an easterly direction along the north line of East Main Street 60.90 feet more or less to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(11); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:12. Henry Coalter Cabell House Old and Historic District (116 South Third Street).

The boundaries of such district are as follows: beginning at the intersection of the west line of South Third Street and the north line of East Canal Street; thence in a northerly direction along the west line of North Third Street 107.33 feet more or less to a point; thence in a westerly direction along a line to a point on the east line of a north-south alley between North Second Street and North Third Street, said point being 107.33 feet more or less north of the north line of East Canal Street; thence in a southerly direction along said line to the north line of East Canal Street; thence in an easterly direction along the north line of East Canal Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(12); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:13. Hermitage Road Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the west line of Hermitage Road extended and the south line of Laburnum Avenue extended; thence in a northerly direction along the west line of Hermitage Road extended to the north line of Laburnum Avenue extended; thence in a westerly direction along the north line of Laburnum Avenue extended to the east line of Hill Monument Parkway extended; thence in a northerly direction along the east line of Hill Monument Parkway extended to the south line of Hill Monument Parkway extended; thence in a northerly direction across Hill Monument Parkway to the north line of Hill Monument Parkway; thence in a westerly direction along the north line of Hill Monument Parkway to a point at the west property line of parcel N017-0473-006 (as assigned by the Assessor of the City, as of November 14,

1988, for tax purposes); said point being 140.54 feet more or less west of the west line extended of Hermitage Road; thence in a northerly direction along said property line and parcels N017-0473-005 and N017-0473-001 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), a combined distance of 635.28 feet more or less to the east line of a 25-foot north-south alley west of Hermitage Road, said alley being the easternmost alley west of Hermitage Road; thence in a northerly direction along said line to the terminus of the alley and the western property line of parcel N017-0228-007 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said terminus being 804.50 feet more or less north of the north line of Bellevue Avenue; thence in a northerly direction along said property line a distance of 410.59 feet more or less to the right-of-way line of Interstate Highway 95; thence in a northeasterly and in an easterly direction continuing along said right-of-way line a total distance of 385.85 feet more or less to the west line of Hermitage Road; thence in a northerly direction along the west line of Hermitage Road to the south line extended of Westbrook Avenue; thence in an easterly direction along the south line extended of Westbrook Avenue to a point at the northeast property line of parcel N017-0178-010 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said point being 150 feet more or less east of the east line of Hermitage Road extended; thence in a southeasterly direction along said property line and the northeast property line of parcel N017-0178-009 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), to its intersection with the east property line of parcel N017-0178-009 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes); thence in a southerly direction along said property line extended 656.50 feet more or less to the north property line extended of parcel N017-0178-002 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes); thence in a westerly direction along said property line extended 83 feet more or less to the east property line of parcel N017-0178-002 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes); thence in a southerly direction along said property line and the east property line extended of parcel N017-0178-001 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), 200 feet more or less to the south line of Princeton Road, said point being 250 feet more or less east of the east line of Hermitage Road; thence in a southerly direction along said line extended a distance of 300 feet more or less to the east property line of parcel N017-0258-056 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said point being 250 feet more or less east of the east line of Hermitage Road; thence in a westerly direction along said property line 190.85 feet more or less to the northeast property line of parcel N017-0258-030 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said point being 182 feet more or less north of the west line of Pope Avenue; thence in a southeasterly direction along said property line extended to the west line of Pope Avenue; thence in a southeasterly direction across Pope Avenue, to a point on the east line of Pope Avenue at the northeast property line of parcel N000-2339-001 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said property line being 340 feet more or less northeast of the intersection of the east line of Pope Avenue extended and the north line of Bellevue Avenue extended; thence in a southeasterly direction along said property line to the east property line of parcel N000-2339-001 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes); thence in a southerly direction along said property line to the north line of Bellevue Avenue; thence in a westerly direction along the north line of Bellevue Avenue to the east property line extended of parcel N000-2176-028 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said property line being 125 feet more or less west of the west line of Chevy Chase Street; thence in a southerly direction along said property line extended 350 feet more or less to the north property line of parcel N000-2176-025 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes); thence in an easterly direction along said property line 125 feet more or less to the west line of Chevy Chase Street; thence in a southerly direction along the west line of Chevy Chase Street 150.24 feet more or less to the south property line of parcel N000-2176-025 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes); thence in a westerly direction along said property line 175.18 feet more or less to the west line of an 18-foot north-south alley between Chevy Chase Street and Hermitage Road; thence in a southerly direction along said line extended to the south line of Nottoway Avenue; thence in an easterly direction along the south line of Nottoway Avenue 50.08 feet more or less to the west line of an 18-foot north-south alley east of Hermitage Road; thence in a southerly direction along the west line extended of said alley to the south line of Claremont Avenue; thence in an easterly direction along the south line of Claremont Avenue 101.08 feet more or less to the west line of an 18-foot north-south alley east of Hermitage Road; thence in a southerly direction along the west line of said alley to the south line of an 18-foot east-west alley between Claremont Avenue and Laburnum Avenue; thence in an easterly direction along said line 162 feet more or less to the west line of Monticello Avenue; thence in a southerly direction along the west line of Monticello Avenue to the

north line of Laburnum Avenue; thence along the north line of Laburnum Avenue to the east line of Hermitage Road; thence in a southerly direction along the east line of Hermitage Road to the south line of Laburnum Avenue; thence in a westerly direction along the south line of Laburnum Avenue to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(13); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:14. Jackson Ward Old and Historic District.

The boundaries of such district are as follows: beginning at the intersection of the west line of Smith Street and the north line extended of an east-west alley between West Marshall Street and West Broad Street; thence in a northerly direction along the west line of Smith Street to the south line extended of Catherine Street; thence in an easterly direction along the south line extended of Catherine Street to the east line of North Monroe Street; thence in a northerly direction along the east line of North Monroe Street to the northeast line of Brook Road; thence in a northerly direction along the east line of Brook Road to the south line of West Leigh Street; thence in an easterly direction along the south line of West Leigh Street 20 feet more or less to the east property line extended of parcel N000-0210-040 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes); thence in a northerly direction along said property line extended to the north line of the southernmost east-west alley between West Leigh Street and West Duval Street; thence in an easterly direction along the said line to a point at the terminus of the alley, said point being 110.00 feet more or less east of the east line of Judah Street; thence in a northerly direction along the east property line of parcel N000-0184-034 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes), 24 feet more or less to the north line extended of an east-west alley between West Leigh Street and West Duval Street; thence in an easterly direction along said line to the west line of St. Peter Street; thence in a northerly direction along the west line of St. Peter Street to the north line extended of West Jackson Street; thence in an easterly direction along the north line extended of West Jackson Street to the east line of Price Street; thence in a southerly direction along the east line of Price Street to the northeast line of Chamberlayne Parkway; thence in a southerly direction along the northeast line of Chamberlayne Parkway to a point, said point being at the intersection of the north line of West Leigh Street and the west property line of parcel N000-0104-039 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes); thence in a northerly direction along said property line extended to the north line of Ceto Alley; thence in an easterly direction along the north line of said alley to the west line of St. James Street; thence in a northerly direction along the west line of St. James Street to the north line of West Jackson Street; thence in an easterly direction along the north line of East Jackson Street to the east line extended of a north-south alley between North First Street and North Second Street; thence in a southerly direction along said line to the north line of an east-west alley between East Jackson Street and East Leigh Street; thence in an easterly direction along said line to the west line of North Second Street; thence in a southerly direction along the west line of North Second Street to a point at the north property line of parcel N000-0062-013 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes), said point being 100 feet more or less south of the south line of East Leigh Street; thence in a westerly direction along said property line to the east line of a north-south alley between North Second Street and North First Street; thence in a southerly direction along said line to the north line of an east-west alley between East Leigh Street and East Clay Street; thence in an easterly direction along said line to a point at the east property line extended of parcel N000-0062-034 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes), said point being 115 feet more or less west of the west line of North Second Street; thence in a southerly direction along said property line extended to the south line of East Clay Street; thence in an easterly direction along the south line of East Clay Street to a point at the east property line of parcel N000-0061-010 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes), said point being 42.50 feet more or less west of the west line of North Second Street; thence in a southerly direction along said property line extended to the south line of the northernmost east-west alley between East Clay Street and East Marshall Street; thence in a westerly direction along said line to the east property line of parcel N000-0061-006 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes); thence in a southerly direction along said property line extended to the south line of the southernmost east-west alley between East Clay Street and East Marshall Street; thence in a westerly direction along said line extended to a point at the east property line of parcel N000-0077-055 (as assigned by the Assessor of the City, as of March 9, 1987, for tax purposes), said point being 75.5 feet more or less east of the east line of North Adams Street; thence

southerly along said property line extended to a point on the south line of West Marshall Street, said point being 75.5 feet more or less east of the east line of North Adams Street; thence in a westerly direction along the south line of West Marshall Street to the east line of North Madison Street; thence in a southerly direction along the east line of North Madison Street to the north line of an east-west alley between West Marshall Street and West Broad Street; thence in a westerly direction along said line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(14); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:15. Jefferson Hotel Old and Historic District (114 West Main Street).

The boundaries of such district are as follows: beginning at the point of intersection of the north line of West Main Street and the east line of North Jefferson Street; thence in a northerly direction along the east line of North Jefferson Street to the south line of West Franklin Street; thence in an easterly direction along the south line of West Franklin Street to the west line of North Adams Street; thence in a southerly direction along the west line of North Adams Street to the north line of West Main Street; thence in a westerly direction along the north line of West Main Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(15); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:16. John Marshall House Old and Historic District (818 East Marshall Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of East Marshall Street and the west line of North Ninth Street; thence in a westerly direction along the north line of East Marshall Street 130 feet more or less to a point; thence in a northerly direction along a line 161 feet more or less to a point; thence in an easterly direction 130 feet more or less along a line to a point on the west line of North Ninth Street; thence in a southerly direction 161 feet more or less along the west line of North Ninth Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(16); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:17. Leigh Street Baptist Church Old and Historic District (East Leigh and Twenty-Fifth Streets).

The boundaries of such district are as follows: beginning at the intersection of the east line of North Twenty-Fifth Street and the south line of West Leigh Street; thence in a southerly direction along the east line of North Twenty-Fifth Street 196 feet more or less to a point; thence along a line parallel with the south line of East Leigh Street in an easterly direction 125 feet more or less to the west line of a north-south alley between North Twenty-Fifth Street and North Twenty-Sixth Street; thence in a northerly direction 196 feet more or less along said line to the south line of West Leigh Street; thence in a westerly direction 125 feet more or less along the south line of West Leigh Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(17); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:18. Linden Row Old and Historic District (100-114 East Franklin Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of East Franklin Street and the east line of North First Street; thence in an easterly direction along the north line of East Franklin Street 210.32 feet more or less to a point on the east property line of parcel W000-0063-017 (as assigned by the Assessor of the City, as of May 11, 1970, for tax purposes); thence in a northerly direction along a line parallel with

North First Street 153 feet more or less to the south line of an east-west alley between East Grace Street and East Franklin Street; thence in a westerly direction along said line to the east line of North First Street; thence in a southerly direction along the east line of North First Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(18); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:19. Mason's Hall Old and Historic District.

The Mason's Hall Old and Historic District shall consist of the following properties, identified by street address and by tax parcel number in the 2017 records of the City Assessor: 1807 East Franklin Street, E000-0132/001.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(18a); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:20. Mayo Memorial House Old and Historic District (110 West Franklin Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of West Franklin Street and the west line of North Jefferson Street; thence in an easterly direction along the north line of West Franklin Street 100.50 feet more or less to a point; thence in a northerly direction along a line parallel with the east line of North Jefferson Street 194.35 feet more or less to a point; thence in a westerly direction along a line parallel with the north line of West Franklin Street to the east line of North Jefferson Street; thence in a southerly direction along the east line of North Jefferson Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(19); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:21. Monument Avenue Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the west line of Roseneath Road and the north line extended of an east-west alley between West Grace Street and Monument Avenue; thence in an easterly direction along the north line of said alley to a point, at the west property line of parcel W000-1129-010 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 61 feet more or less west of the west line of North Davis Avenue; thence in a northerly direction along said line extended to the north line of West Grace Street; thence in an easterly direction along the north line of West Grace Street to a point at the west property line of parcel W000-1130-014 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 32 feet more or less west of the west line of North Davis Avenue; thence in a northerly direction along said property line to the south line of an east-west alley between West Grace Street and West Broad Street; thence in an easterly direction along said line extended to the east line of North Davis Avenue; thence in a southerly direction along the east line of North Davis Avenue to a point at the north property line of parcel W000-1048-057 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 101.5 feet more or less north of the north line of West Grace Street; thence in an easterly direction along said property line to a point on the east property line of said parcel, said point being 31.40 feet more or less east of the east line of North Davis Avenue; thence in a southerly direction along said property line extended to the south line of West Grace Street; thence in an easterly direction along the south line of West Grace Street to a point at the east property line of parcel W000-1087-001 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 33 feet more or less east of the east line of North Davis Avenue; thence in a southerly direction along said property line to the north line of an east-west alley between West Grace Street and Monument Avenue; thence in an easterly direction along said line to a point at the west property line of parcel W000-0862-025, said point being 112 feet more or less west of the west line of North Allen Avenue; thence in a northerly direction along said line extended to a point at the west property line of parcel W000-0821-028 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes); thence in a northerly direction along said line to the south line of a 14-foot east-west alley between West Grace Street and West Broad Street; thence in

an easterly direction along said line to the west line of North Allen Avenue; thence in a northerly direction along the west line of North Allen Avenue to the south line of West Broad Street; thence in an easterly direction along the south line of West Broad Street to the east line of North Allen Avenue; thence in a southerly direction along the east line of North Allen Avenue to the south line of a 14-foot east-west alley between West Broad Street and West Grace Street; thence in an easterly direction along said line to a point at the east property line of parcel W000-0736-066 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 28 feet more or less east of the east line of North Allen Avenue; thence in a southerly direction along said property line to the north line of West Grace Street; thence in an easterly direction along the north line of West Grace Street to a point at the east property line extended of parcel W000-0735-001 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 140 feet more or less east of the east line of North Allen Avenue; thence in a southerly direction along said property line extended to the north line of an east-west alley between West Grace Street and Monument Avenue/West Franklin Street; thence in an easterly direction along said line to a point on the east property line extended of parcel W000-0614-026 (as assigned by the Assessor of the City, as of February 23, 1971, for tax purposes), said point being 223 feet more or less west of the west line of Ryland Street; thence in a southerly direction along said east property line extended to the south line of West Franklin Street; thence westerly along the south line of West Franklin Street to the east line of Birch Street; thence in a southerly direction along the east line of Birch Street to the south line extended of an east-west alley between West Franklin Street and West Avenue; thence in a westerly direction along said line to the west line extended of a 20-foot north-south alley between Birch Street and North Lombardy Street; thence in a northerly direction a distance of 14.55 feet more or less along said line to a point 150 feet south of the south line of West Franklin Street; thence in a westerly direction along a line parallel to the south line of West Franklin Street from said point to the east line of North Lombardy Street (Stuart Circle); thence in a southerly direction along the east line of North Lombardy Street to the south line extended of the southernmost east-west alley between Monument Avenue and Park Avenue; thence in a westerly direction along said line to the west line of the westernmost north-south alley between North Lombardy Street and North Allen Avenue; thence in a southerly direction along said line to the south line of the southernmost east-west alley between Monument Avenue and Park Avenue; thence in a westerly direction along said line to a point at the east property line extended of parcel W000-0666-001 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 134 feet more or less east of the east line of North Allen Avenue; thence in a southerly direction along said line extended to the south line of Park Avenue; thence in a westerly direction along the south line of Park Avenue to the west line of North Allen Avenue; thence in a southerly direction along the west line of North Allen Avenue to the north line of the northernmost east-west alley between Park Avenue and Hanover Avenue; thence in a westerly direction along said line 99.58 feet more or less to a point at the west property line of parcel W000-0818-010 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes); thence in a northerly direction along said property line extended to a point on the north line of Park Avenue; thence in a westerly direction along the north line of Park Avenue to a point on the east line of the easternmost north-south alley between North Allen Avenue and North Meadow Street, said point being 123 feet more or less west of the west line of North Allen Avenue; thence in a northerly direction along said line to the south line of the southernmost east-west alley between Park Avenue and Monument Avenue; thence in a westerly direction along said line to the east line extended of a 20-foot north-south alley between North Allen Avenue and North Meadow Street; thence in a northerly direction along said line to the south line of the northernmost east-west alley between Monument Avenue and Park Avenue; thence in a westerly direction along the south line of a series of east-west alleys between Monument Avenue and Park Avenue to the west line of a ten-foot north-south alley between Strawberry Street and North Davis Avenue; thence in a southerly direction along said line extended to the south line of Park Avenue; thence in a westerly direction along the south line of Park Avenue to the east line of North Davis Avenue; thence in a southerly direction along the east line of North Davis Avenue to the north line extended of a ten-foot east-west alley between Park Avenue and Kensington Avenue; thence in a westerly direction along said line extended to a point at the western property line of parcel W000-1127-013 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 74 feet more or less west of the west line of North Davis Avenue; thence in a northerly direction along said property line to the south line of Park Avenue; thence in a westerly direction along the south line of Park Avenue to a point at the west property line extended of parcel W000-1128-007 (as assigned by the Assessor of the City, as of May 29, 1990, for tax purposes), said point being 157 feet more or less east of the east line of North Robinson Street; thence in a northerly direction along said property line extended to a point, said point being 150 feet south of the south line of Monument Avenue; thence in a westerly direction along a line parallel

to the south line of Monument Avenue to the east line of North Robinson Street; thence in a southerly direction along the east line of North Robinson Street to the south line extended of an east-west alley between Monument Avenue and Park Avenue; thence in a westerly direction along said line extended to the west line of North Mulberry Street; thence in a northerly direction along the west line of North Mulberry Street 11 feet more or less to a point, said point being 150 feet south of the south line of Monument Avenue; thence in a westerly direction along a line parallel to the south line of Monument Avenue to the west line of North Boulevard; thence in a northerly direction along the west line of North Boulevard to a point on the south property line of parcel W000-1250-004 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes), said point being 121 feet more or less south of the south line of Monument Avenue; thence in a westerly direction along said line and the south property line of parcel W000-1250-020 (as assigned by the Assessor of the City, as of November 14, 1988, for tax purposes) to the east line of a 15.33-foot north-south alley between North Boulevard and North Colonial Avenue; thence in a southerly direction along said line to the south line extended of the northernmost east-west alley between Monument Avenue and Park Avenue; thence in a westerly direction along said line as it meanders to the west line of Cleveland Street; thence in a northerly direction along the west line of Cleveland Street to the south line of a 16-foot east-west alley between Monument Avenue and West Franklin Street, said alley being parallel to West Franklin Street; thence in a westerly direction along said line to the south line extended of the northernmost east-west alley between Monument Avenue and West Franklin Street, said alley line being parallel to Monument Avenue; thence in a westerly direction along said line extended to the west line of Roseneath Road; thence in a northerly direction along the west line of Roseneath Road to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(20); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:22. William W. Morien House Old and Historic District (2226 West Main Street).

The boundaries of such district are as follows: beginning at a point on West Main Street, said point being 54 feet more or less east of the east line of Strawberry Street; thence in an easterly direction along the north line of West Main Street 50 feet more or less to the east property line of parcel W000-0996-031 (as assigned by the Assessor of the City, as of May 9, 1983, for tax purposes); thence in a northerly direction along said property line 125 feet more or less to the south line of the southernmost east-west alley between Floyd Avenue and West Main Street; thence in a westerly direction along said line to a point on the west property line of parcel W000-0996-031, said point being 54.50 feet more or less east of the east line of Strawberry Street; thence in a southerly direction along said property line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(21); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:23. Norman Stewart House Old and Historic District (707 East Franklin Street).

The boundaries of such district are as follows: beginning at a point on the south line of East Franklin Street, said point being 79.08 feet more or less east of the east line of North Seventh Street; thence in an easterly direction along the south line of East Franklin Street 52.50 feet more or less to a point; thence in a southerly direction 153.02 feet more or less to a point on the north line of Travellers Alley, said point being 132 feet more or less east of the east line of North Seventh Street; thence in a westerly direction 52 feet more or less along the north line of Travellers Alley to a point, said point being 79.08 feet more or less east of the east line of North Seventh Street; thence in a northerly direction 153 feet more or less along a line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(22); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:24. Old Stone House Old and Historic District (1916 East Main Street).

The boundaries of such district are as follows: beginning at a point on the north line of East Main Street, said point being 66 feet more or less west of the west line of North Twentieth Street; thence in a westerly direction along the north line of East Main Street 32 feet more or less to a point; thence in a northerly direction along a line 155 feet more or less to a point on the south line of Rose Alley, said point being 98 feet more or less west of the west line of North Twentieth Street; thence in an easterly direction 32 feet more or less along the south line of Rose Alley to a point, said point being 66 feet more or less west of the west line of North Twentieth Street; thence in a southerly direction 155 feet more or less along a line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(23); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:25. Pace House Old and Historic District (100 West Franklin Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of West Franklin Street and the west line of North Adams Street; thence in a westerly direction along the north line of West Franklin Street 60.5 feet more or less to a point on the west property line of parcel W000-0126-011 (as assigned by the Assessor of the City, as of October 28, 1985, for tax purposes); thence in a northerly direction along said property line parallel with the west line of North Adams Street 184.14 feet more or less to the south line of a private alley between West Grace Street and West Franklin Street; thence in an easterly direction along said line to the west line of North Adams Street; thence in a southerly direction along the west line of North Adams Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(24); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:26. St. Andrew's Episcopal Church Old and Historic District (Northwest corner South Laurel Street and Idlewood Avenue).

The boundaries of such district are as follows: beginning at the intersection of the west line of South Laurel Street and north line of Idlewood Avenue; thence in a northerly direction along the west line of South Laurel Street 82 feet more or less to a point on the north property line of parcel W000-0252-020 (as assigned by the Assessor of the City, as of January 9, 1978, for tax purposes); thence in a westerly direction along said property line 139 feet more or less to the east line of a north-south alley between South Cherry Street and South Laurel Street; thence in a southerly direction along said line to the north line of Idlewood Avenue; thence in an easterly direction along the north line of Idlewood Avenue to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(25); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:27. St. John's Church Old and Historic District.

The boundaries of such district are as follows: beginning at the intersection of the east line of North Twenty-Second Street extended with the north line of East Franklin Street; thence in a westerly direction along the north line of East Franklin Street to the east line of North Twenty-First Street; thence in a northerly direction along the east line of North Twenty-First Street to the south line of the southernmost east-west alley between East Broad Street and East Marshall Street; thence in an easterly direction along said line to the east line of the easternmost north-south alley between North Twenty-First Street and North Twenty-Second Street; thence in a northerly direction along said line to the south line of a 15-foot east-west alley between East Broad Street and East Marshall Street; thence in an easterly direction along said line to the west line of North Twenty-Second Street; thence in a southeasterly direction across North Twenty-Second Street to the north line of an east-west alley between East Broad Street and East Marshall Street; thence in an easterly direction along said line to the west line of North Twenty-Third Street; thence in a northerly direction along the west line of North Twenty-Third Street to the south

line of East Marshall Street; thence in an easterly direction along the south line of East Marshall Street to the west line of North Twenty-Fifth Street; thence in a southerly direction along the west line of North Twenty-Fifth Street to a point, said point being midway between the north line of East Broad Street and the south line of East Marshall Street; thence in an easterly direction along a line parallel with East Broad Street to the west line of North Twenty-Ninth Street at a point, said point being midway between the north line of East Broad Street and the south line of East Marshall Street; thence in a northerly direction along the west line of North Twenty-Ninth Street to the south line of East Marshall Street; thence in an easterly direction along the south line of East Marshall Street to the east line of North Thirty-First Street; thence in a northerly direction along the east line of North Thirty-First Street to the south line of an east-west alley between East Marshall Street and East Clay Street; thence in an easterly direction along said line to the west line of North Thirty-Second Street; thence in a southerly direction along the west line of North Thirty-Second Street to the north line of East Grace Street; thence in a southeasterly direction along the western edge of the westernmost roadway in Chimborazo Park 400 feet more or less to a point; thence in a southwesterly direction a distance of 700 feet more or less to the intersection of the south line of Libby Terrace and the west line of South Thirty-First Street; thence in a southerly direction along the west line of South Thirty-First Street to the north line of Williamsburg Avenue; thence in a westerly direction along the north line of Williamsburg Avenue to its intersection with the north line of East Main Street; thence in a northwesterly direction along the north line of East Main Street to a point, said point being 140 feet more or less east of the east line of North Twenty-Seventh Street; thence in a northerly direction along a line parallel to the east line of North Twenty-Seventh Street to a point, said point being midway between the south line of East Franklin Street and the north line of East Main Street; thence in a westerly direction along a line parallel with the south line of East Franklin Street to a point on the east line of North Twenty-Second Street, said point being midway between the south line of East Franklin Street and the north line of East Main Street; thence in a northerly direction along the east line of North Twenty-Second Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(26); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:28. St. Paul's Episcopal Church Old and Historic District (815 East Grace Street).

The boundaries of such district are as follows: beginning at the intersection of the south line of East Grace Street and the west line of North Ninth Street; thence in a westerly direction 67.50 feet more or less to a point; thence in a southerly direction along a line parallel with the west line of North Ninth Street 146.77 feet more or less to the north line of an alley between East Grace Street and East Franklin Street; thence in an easterly direction 67.50 feet more or less to the west line of North Ninth Street; thence in a northerly direction 146.77 feet more or less along the west line of North Ninth Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(27); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:29. St. Peter's Catholic Church Old and Historic District (800 East Grace Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of East Grace Street and the east line of North Eighth Street; thence in an easterly direction along the north line of East Grace Street 65 feet more or less to a point; thence in a northerly direction along a line parallel with the east line of North Eighth Street 163.17 feet more or less to a point; thence in a westerly direction 65 feet more or less to the east line of North Eighth Street; thence in a southerly direction 163.17 feet more or less along the east line of North Eighth Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(28); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:30. Second Presbyterian Church Old and Historic District (9 North Fifth Street).

The boundaries of such district are as follows: beginning at a point on the east line of North Fifth Street, said point being 54.29 feet more or less north of the north line of East Main Street; thence in a northerly direction along the east line of North Fifth Street 108.83 feet more or less to a point; thence in an easterly direction 130.96 feet more or less to the west line of a north-south alley between North Fifth Street and North Sixth Street; thence in a southerly direction along said line to a point 54.29 feet more or less north of the north line of East Main Street; thence in a westerly direction along a line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(29); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:31. Shockoe Slip Old and Historic District.

The boundaries of such district are as follows: beginning at the intersection of the north right-of-way line of the Richmond Metropolitan Authority Downtown Expressway and the east line of South Twelfth Street; thence in a northerly direction along the east line of South Twelfth Street to the south line of East Main Street; thence in an easterly direction along the south line of East Main Street to the west line of South Fifteenth Street; thence in a southerly direction along the west line of South Fifteenth Street to the south line extended of an east-west 14.21-foot alley between East Main Street and East Cary Street; thence 187 feet more or less in an easterly direction along said line extended to a point at the west line of a north-south overhead railway trestle; thence 600 feet more or less in a southerly direction along the west line of the overhead railway trestle to a point at the intersection of the west line of the overhead railway trestle and the north line of Dock Street; thence in a westerly direction along the north line of Dock Street extended to the west line of South Fourteenth Street; thence 25 feet more or less in a southerly direction along the west line of South Fourteenth Street to the south property line of parcel E000-0069-001a (as assigned by the Assessor of the City, as of February 8, 1999 for tax purposes); thence in a westerly direction along said property line and the south property line of parcel E000-0069-001b extended to the west line of Virginia Street; thence in a southerly direction along the west line of Virginia Street to the south property line of 140 Virginia Street, said line being 80.12 feet more or less south of the south line of Pope's Alley; thence in a westerly direction along the south building line extended in a westerly direction as it meanders to the west property line of 140 Virginia Street; thence in a northerly direction along said line extended to the north right-of-way line of the Richmond Metropolitan Authority Downtown Expressway; thence in a westerly direction along the north right-of-way line of the Richmond Metropolitan Authority Downtown Expressway as it meanders to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(30); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:32. Shockoe Valley Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the east line of North Eighteenth Street with the south line of East Broad Street; thence in an easterly direction along the south line of East Broad Street to the east line of North Nineteenth Street; thence in a northerly direction along the east line of North Nineteenth Street to the south line of East Marshall Street; thence in an easterly direction along the south line of East Marshall Street to the east line of North Twenty-First Street; thence in a southerly direction along the east line of North Twenty-First Street to the north line of East Franklin Street; thence in a westerly direction along the north line of East Franklin Street to the east line of North Eighteenth Street; thence in a northerly direction along the east line of North Eighteenth Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(31); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:33. Sixth Mount Zion Baptist Church Old and Historic District (12-14 West Duval Street).

The boundaries of such district are as follows: beginning at the intersection of the west ling of North First Street and the north line of East Duval Street; thence in a westerly direction along the north line of East and West Duval Streets, which is also the south property lines of parcels N000-0106-040, N000-0106-026, and N000-0106-039 (as assigned by the Assessor of the City, as of April 26, 2004, for tax purposes); 962 feet more or less to a point at the southwest corner of parcel N000-0106-039; thence in a northerly direction along a line perpendicular with the north line of West Duval Street 40 feet more or less to the northwest corner of said parcel; thence in a easterly direction along the north property line to the northeast corner of said parcel, which is also a point on the west property of parcel N000-0106-026; said point 70 feet more or less along a line perpendicular with the north line of West Duval Street; thence in a northerly direction along the west property to the northwest corner of said parcel; thence in a easterly direction, then southeasterly direction along the north property line to the northeast corner of said parcel, thence in a southerly direction along the east property line to a point, which is also the northwest corner of parcel N000-0106-040; said point 99 feet more or less along a line perpendicular with the north line of West Duval Street; thence in a easterly direction along the north property line to the northeast corner of said parcel, which is also on the west line of North First Street; thence in a southerly direction along the west line of North First Street 12 feet more or less to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(32); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:34. Springhill Old and Historic District.

The boundaries of such district are as follows: Beginning at the point of intersection of the north right-of-way line of Semmes Avenue and the east right-of-way line of the north-south alley between West 22nd Street and West 24th Street (West 23rd Street being nonexistent); thence in a northerly direction along said east right-of-way line approximately two and one-half blocks to the south right-of-way line of the northernmost east-west alley between Riverside Drive and Semmes Avenue; thence in an easterly direction along said south right-of-way line to the west property line of parcel S000-0500/035 (as assigned by the Assessor of the City, as of July 11, 2005, for tax purposes); thence in a northerly direction along said west property line to the south right-of-way line of Riverside Drive; thence in a curving line in an easterly direction along said south right-of-way line approximately two blocks to the west right-of-way line of West 21st Street; thence in a southerly direction along said west right-of-way line to the south right-of-way line of Stonewall Avenue; thence in an easterly direction along said south right-of-way line approximately two and one-half blocks to the west right-of-way line of the north-south alley between West 19th Street and Cowardin Avenue; thence in a southerly direction along the west right-of-way lines of a series of north-south alleys between West 19th Street and Cowardin Avenue approximately one and one-half blocks to the south property line of parcel S000-0249/017 (as assigned by the Assessor of the City, as of July 11, 2005, for tax purposes); thence in a westerly direction along said south property line extended, across West 19th Street, to the southeast corner of parcel S000-0302/006 (as assigned by the Assessor of the City, as of July 11, 2005, for tax purposes); thence in a westerly direction along the north right-of-way lines of a series of east-west alleys between Spring Hill Avenue and Semmes Avenue approximately three and one-half blocks to the east property line of parcel S000-050/030 (as assigned by the Assessor of the City, as of July 11, 2005, for tax purposes); thence in a southerly direction along said east property line to the south property line of said parcel; thence in a westerly direction along said south property line to the east property line of parcel S000-0500/028 (as assigned by the Assessor of the City, as of July 11, 2005, for tax purposes); thence in a southerly direction along said east property line to the north right-of-way line of Semmes Avenue; thence in a westerly direction along said north right-of-way line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(33); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:35. Stonewall Jackson School Old and Historic District (1520 West Main Street).

The boundaries of such district are as follows: beginning at the intersection of the north line of West Main Street and the east line of North Lombardy Street; thence in a northerly direction along the east line of North Lombardy Street to the south line of the southernmost east-west alley between Floyd Avenue and West Main Street; thence in an easterly direction along said line 171.01 feet more or less to a point on the east property line of parcel W000-0607-036 (as assigned by the Assessor of the City, as of July 11, 1983, for tax purposes); thence in a southerly direction along said property line and the east property line of parcel W000-0607-037 (as assigned by the Assessor of the City, as of July 11, 1983, for tax purposes) 179.75 feet more or less to the north line of West Main Street; thence in a westerly direction along the north line of West Main Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(34); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:36. Talavera Old and Historic District (2315 West Grace Street).

The boundaries of such district are as follows: beginning at a point on the south line of West Grace Street at the west property line of parcel W000-1087-016 (as assigned by the Assessor of the City, as of September 22, 1986, for tax purposes), thence in a westerly direction along the south line of West Grace Street 59 feet more or less to a point on the west property line of said parcel; thence in a southerly direction along said property line to a point on the north line of an east-west alley between West Grace Street and Monument Avenue; thence in a westerly direction 59 feet more or less along said line to a point on the east property line of said parcel; thence in a northerly direction along said property line to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(35); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:37. The Two Hundred Block West Franklin Street Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the west line of North Madison Street and the north line extended of an east-west alley between West Grace and West Franklin Streets; thence in an easterly direction along said line extended to the east line of North Jefferson Street; thence in a southerly direction along the east line of North Jefferson Street to the south line extended of an east-west alley between West Franklin Street and West Main Street; thence in a westerly direction along said line to a point on the east property line of parcel W000-0146-017 (as assigned by the Assessor of the City, as of September 24, 1990, for tax purposes), said point being 104 feet more or less east of the east line of North Madison Street; thence in a southerly direction along said property line to the north line of West Main Street; thence in a westerly direction along the north line of West Main Street to the west line of North Madison Street; thence in a northerly direction along the west line of North Madison Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(36); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:38. Union Hill Old and Historic District.

The Union Hill Old and Historic District shall consist of the following properties, identified by street address and by tax parcel number in the 2009 records of the City Assessor:

221 North 21st Street	E000-0220/001
(no street address)	E000-0220/002
1928 Princess Anne Avenue	E000-0251/024
1922 Princess Anne Avenue	E000-0251/025

1918 Princess Anne Avenue	E000-0251/027
1916 Princess Anne Avenue	E000-0251/028
1914 Princess Anne Avenue	E000-0251/029
1912 Princess Anne Avenue	E000-0251/030
1910 Princess Anne Avenue	E000-0251/031
1906 Princess Anne Avenue	E000-0251/032
1900 Princess Anne Avenue	E000-0251/037
2003 Cedar Street	E000-0252/001
2005 Cedar Street	E000-0252/002
2007 Cedar Street	E000-0252/003
2009 Cedar Street	E000-0252/004
618 North 21st Street	E000-0252/005
616 North 21st Street	E000-0252/006
614½ North 21st Street	E000-0252/007
614 North 21st Street	E000-0252/008
612½ North 21st Street	E000-0252/009
612 North 21st Street	E000-0252/010
610 North 21st Street	E000-0252/011
608 North 21st Street	E000-0252/012
606 North 21st Street	E000-0252/013
604 North 21st Street	E000-0252/014
602½ North 21st Street	E000-0252/015
602 North 21st Street	E000-0252/016
600 North 21st Street	E000-0252/017
532 North 21st Street	E000-0252/018
530 North 21st Street	E000-0252/019
528 North 21st Street	E000-0252/020
526 North 21st Street	E000-0252/021
522 North 21st Street	E000-0252/023
520 North 21st Street	E000-0252/024
2020 Princess Anne Avenue	E000-0252/025
2018 Princess Anne Avenue	E000-0252/026
2016 Princess Anne Avenue	E000-0252/027
2014 Princess Anne Avenue	E000-0252/028
2012 Princess Anne Avenue	E000-0252/029
2010 Princess Anne Avenue	E000-0252/030
2008 Princess Anne Avenue	E000-0252/031

2002 Princess Anne Avenue	E000-0252/032
507 Mosby Street	E000-0252/033
509 Mosby Street	E000-0252/037
513 Mosby Street	E000-0252/039
517 Mosby Street	E000-0252/040
519 Mosby Street	E000-0252/041
523 Mosby Street	E000-0252/042
525 Mosby Street	E000-0252/044
529 Mosby Street	E000-0252/045
531 Mosby Street	E000-0252/047
533 Mosby Street	E000-0252/048
535 Mosby Street	E000-0252/049
537 Mosby Street	E000-0252/050
539 Mosby Street	E000-0252/051
541 Mosby Street	E000-0252/052
2111 M Street	E000-0253/001
2109 M Street	E000-0253/002
2113 M Street	E000-0253/005
2115 M Street	E000-0253/006
2117 M Street	E000-0253/007
2119 M Street	E000-0253/008
2121 M Street	E000-0253/010
604 North 22nd Street	E000-0253/011
602 North 22nd Street	E000-0253/012
2114½ East Leigh Street	E000-0253/014
2112½ East Leigh Street	E000-0253/015
2110 East Leigh Street	E000-0253/016
2108 East Leigh Street	E000-0253/017
517 North 21st Street	E000-0253/018
521 North 21st Street	E000-0253/020
523 North 21st Street	E000-0253/021
529 North 21st Street	E000-0253/024
531 North 21st Street	E000-0253/025
600 2 North 22nd Street	E000-0253/026
520 North 22nd Street	E000-0254/002
518 North 22nd Street	E000-0254/003
516 North 22nd Street	E000-0254/004

514 North 22nd Street	E000-0254/005
512 North 22nd Street	E000-0254/006
510 North 22nd Street	E000-0254/007
508 North 22nd Street	E000-0254/008
506 North 22nd Street	E000-0254/009
504 North 22nd Street	E000-0254/010
2112 East Clay Street	E000-0254/012
2110 East Clay Street	E000-0254/014
2108 East Clay Street	E000-0254/015
2102 East Clay Street	E000-0254/016
2100 East Clay Street	E000-0254/018
507 North 21st Street	E000-0254/019
509 North 21st Street	E000-0254/021
511 North 21st Street	E000-0254/023
2205 East Leigh Street	E000-0256/001
512 North 23rd Street	E000-0256/003
508 North 23rd Street	E000-0256/004
506 North 23rd Street	E000-0256/005
2224 Jefferson Avenue	E000-0256/007
2220 Jefferson Avenue	E000-0256/009
2218 Jefferson Avenue	E000-0256/011
2214 Jefferson Avenue	E000-0256/013
2212 Jefferson Avenue	E000-0256/014
2210 Jefferson Avenue	E000-0256/015
2208 Jefferson Avenue	E000-0256/016
2206 Jefferson Avenue	E000-0256/017
2204 Jefferson Avenue	E000-0256/018
2202 Jefferson Avenue	E000-0256/019
509 North 22nd Street	E000-0256/021
511 North 22nd Street	E000-0256/023
513 North 22nd Street	E000-0256/024
515 North 22nd Street	E000-0256/025
517 North 22nd Street	E000-0256/026
519 North 22nd Street	E000-0256/027
521 North 22nd Street	E000-0256/028
523 North 22nd Street	E000-0256/029
510 North 23rd Street	E000-0256/031

2103 Cedar Street	E000-0290/001
2107 Cedar Street	E000-0290/003
2109 Cedar Street	E000-0290/004
2111 Cedar Street	E000-0290/005
2113 Cedar Street	E000-0290/006
2115 Cedar Street	E000-0290/007
2117 Cedar Street	E000-0290/008
2121 Cedar Street	E000-0290/010
2120 M Street	E000-0290/011
2118 M Street	E000-0290/012
2116 M Street	E000-0290/013
2114 M Street	E000-0290/014
2112 M Street	E000-0290/015
2110 M Street	E000-0290/017
2102 M Street	E000-0290/018
2100 M Street	E000-0290/019
601 North 21st Street	E000-0290/020
603 North 21st Street	E000-0290/021
603½ North 21st Street	E000-0290/022
605 North 21st Street	E000-0290/023
607 North 21st Street	E000-0290/024
609 North 21st Street	E000-0290/025
611 North 21st Street	E000-0290/026
613 North 21st Street	E000-0290/027
615 North 21st Street	E000-0290/028
617 North 21st Street	E000-0290/029
619 North 21st Street	E000-0290/030
2215 M Street	E000-0292/001
2219 M Street	E000-0292/002
620 North 23rd Street	E000-0292/003
616 North 23rd Street	E000-0292/005
614½ North 23rd Street	E000-0292/008
614 North 23rd Street	E000-0292/009
612 North 23rd Street	E000-0292/010
610 North 23rd Street	E000-0292/011
608 North 23rd Street	E000-0292/012
606 North 23rd Street	E000-0292/013

604 North 23rd Street	E000-0292/014
600 North 23rd Street	E000-0292/015
2208 East Leigh Street	E000-0292/017
2206 East Leigh Street	E000-0292/018
2204 East Leigh Street	E000-0292/019
601 North 22nd Street	E000-0292/020
603 North 22nd Street	E000-0292/021
605 North 22nd Street	E000-0292/022
607 North 22nd Street	E000-0292/023
609 North 22nd Street	E000-0292/024
611 North 22nd Street	E000-0292/025
613 North 22nd Street	E000-0292/026
(no street address)	E000-0292/027
2311 M Street	E000-0293/001
2311½ M Street	E000-0293/002
2315 M Street	E000-0293/003
2317 M Street	E000-0293/004
2319 M Street	E000-0293/005
608 North 24th Street	E000-0293/006
606 North 24th Street	E000-0293/007
2314 Jefferson Avenue	E000-0293/009
2312 Jefferson Avenue	E000-0293/010
2310 Jefferson Avenue	E000-0293/011
2308 Jefferson Avenue	E000-0293/012
2306 East Leigh Street	E000-0293/013
2304 East Leigh Street	E000-0293/014
601 North 23rd Street	E000-0293/015
601½ North 23rd Street	E000-0293/016
603½ North 23rd Street	E000-0293/017
605 North 23rd Street	E000-0293/019
607 North 23rd Street	E000-0293/020
609 North 23rd Street	E000-0293/021
611 North 23rd Street	E000-0293/022
613 North 23rd Street	E000-0293/023
615 North 23rd Street	E000-0293/025
617½ North 23rd Street	E000-0293/027
619 North 23rd Street	E000-0293/029

(no street address)	E000-0293/030
(no street address)	E000-0293/035
(no street address)	E000-0293/036
(no street address)	E000-0293/037
(no street address)	E000-0293/040
603 North 23rd Street	E000-0293/041
606½ North 24th Street	E000-0293/042
2312 Rear Jefferson Avenue	E000-0293/043
2306 Jefferson Avenue	E000-0295/031
1921 Carrington Street	E000-0327/001
1925 Carrington Street	E000-0327/006
1927 Carrington Street	E000-0327/008
814 North 21st Street	E000-0327/014
812 North 21st Street	E000-0327/015
810 North 21st Street	E000-0327/016
806 North 21st Street	E000-0327/018
804 North 21st Street	E000-0327/019
800 North 21st Street	E000-0327/021
2018 Venable Street	E000-0327/022
2016 Venable Street	E000-0327/023
2014 Venable Street	E000-0327/024
2010 Venable Street	E000-0327/025
2008 Venable Street	E000-0327/027
2004 Venable Street	E000-0327/029
2002 Venable Street	E000-0327/030
701 Mosby Street	E000-0327/031
715 Mosby Street	E000-0327/035
717 Mosby Street	E000-0327/038
719 Mosby Street	E000-0327/039
721 Mosby Street	E000-0327/040
1929 Carrington Street	E000-0327/041
2001 Venable Street	E000-0328/001
2007 Venable Street	E000-0328/004
2009 Venable Street	E000-0328/005
2011 Venable Street	E000-0328/006
2013 Venable Street	E000-0328/007
2015 Venable Street	E000-0328/008

2017 Venable Street	E000-0328/009
2019 Venable Street	E000-0328/010
2021 Venable Street	E000-0328/012
2025 Venable Street	E000-0328/013
712 North 21st Street	E000-0328/014
710 North 21st Street	E000-0328/015
708 North 21st Street	E000-0328/016
706 North 21st Street	E000-0328/017
704 North 21st Street	E000-0328/019
702 North 21st Street	E000-0328/020
700 North 21st Street	E000-0328/021
2012 Cedar Street	E000-0328/022
2010 Cedar Street	E000-0328/023
2008 Cedar Street	E000-0328/024
2006 Cedar Street	E000-0328/025
2004 Cedar Street	E000-0328/026
2002 Cedar Street	E000-0328/027
2000 Cedar Street	E000-0328/028
812 North 22nd Street	E000-0329/001
810 North 22nd Street	E000-0329/004
804 North 22nd Street	E000-0329/005
800 North 22nd Street	E000-0329/008
2116 Cedar Street	E000-0329/009
2108 Cedar Street	E000-0329/010
2106 Cedar Street	E000-0329/013
2104 Cedar Street	E000-0329/014
701 North 21st Street	E000-0329/015
703 North 21st Street	E000-0329/016
705 North 21st Street	E000-0329/017
705½ North 21st Street	E000-0329/018
707 North 21st Street	E000-0329/020
709 North 21st Street	E000-0329/021
711 North 21st Street	E000-0329/022
713 North 21st Street	E000-0329/023
2110 Cedar Street	E000-0329/024
2112 Cedar Street	E000-0329/025
2114 Cedar Street	E000-0329/026

814 Jessamine Street	E000-0330/001
812 Jessamine Street	E000-0330/003
810 Jessamine Street	E000-0330/004
808 Jessamine Street	E000-0330/005
806 Jessamine Street	E000-0330/006
802 Jessamine Street	E000-0330/008
800 Jessamine Street	E000-0330/009
(no street address)	E000-0330/010
2216 Cedar Street	E000-0330/011
2210 Cedar Street	E000-0330/012
2207 Burton Street	E000-0330/013
2208 Cedar Street	E000-0330/015
2206 Cedar Street	E000-0330/016
2202 Cedar Street	E000-0330/017
2200 Cedar Street	E000-0330/019
816 Jessamine Street	E000-0330/020
2211 Cedar Street	E000-0331/001
2213 Cedar Street	E000-0331/003
2215 Cedar Street	E000-0331/004
2217 Cedar Street	E000-0331/005
2221 Cedar Street	E000-0331/007
2225 Cedar Street	E000-0331/008
730 North 23rd Street	E000-0331/009
728 North 23rd Street	E000-0331/010
726 North 23rd Street	E000-0331/011
718 North 23rd Street	E000-0331/012
724 Jessamine Street	E000-0331/015
722 Jessamine Street	E000-0331/016
720 Jessamine Street	E000-0331/017
718 Jessamine Street	E000-0331/018
716 North 23rd Street	E000-0331/019
714 North 23rd Street	E000-0331/020
712 North 23rd Street	E000-0331/021
710 North 23rd Street	E000-0331/022
708 North 23rd Street	E000-0331/023
702 North 23rd Street	E000-0331/024
2208 M Street	E000-0331/033

2206 M Street	E000-0331/034
2202 M Street	E000-0331/036
711 North 22nd Street	E000-0331/038
713 North 22nd Street	E000-0331/039
715 North 22nd Street	E000-0331/040
717 North 22nd Street	E000-0331/041
719 North 22nd Street	E000-0331/043
723 North 22nd Street	E000-0331/045
725 North 22nd Street	E000-0331/046
727 North 22nd Street	E000-0331/047
2212 M Street	E000-0331/050
2210 M Street	E000-0331/051
2204 M Street	E000-0331/052
2305 Cedar Street	E000-0332/004
712 North 24th Street	E000-0332/011
710 North 24th Street	E000-0332/012
708 North 24th Street	E000-0332/014
706 North 24th Street	E000-0332/015
704 North 24th Street	E000-0332/016
702 North 24th Street	E000-0332/017
700 North 24th Street	E000-0332/018
2312 M Street	E000-0332/019
2306 M Street	E000-0332/021
705 North 23rd Street	E000-0332/023
701 North 23rd Street	E000-0332/024
709 North 23rd Street	E000-0332/028
711 North 23rd Street	E000-0332/029
713 North 23rd Street	E000-0332/030
2405 Cedar Street	E000-0333/001
2407 Cedar Street	E000-0333/002
726 North 25th Street	E000-0333/004
722 North 25th Street	E000-0333/006
720 North 25th Street	E000-0333/007
718 North 25th Street	E000-0333/008
716 North 25th Street	E000-0333/009
714 North 25th Street	E000-0333/010
712 North 25th Street	E000-0333/011

710 North 25th Street	E000-0333/012
708 North 25th Street	E000-0333/013
700 North 25th Street	E000-0333/014
2412 M Street	E000-0333/018
2410 M Street	E000-0333/019
701 North 24th Street	E000-0333/020
703 North 24th Street	E000-0333/021
705 North 24th Street	E000-0333/022
707 North 24th Street	E000-0333/023
709 North 24th Street	E000-0333/024
713 North 24th Street	E000-0333/026
715 North 24th Street	E000-0333/027
717 North 24th Street	E000-0333/028
719 North 24th Street	E000-0333/029
721 North 24th Street	E000-0333/030
723 North 24th Street	E000-0333/031
725 North 24th Street	E000-0333/032
727 North 24th Street	E000-0333/033
2411 M Street	E000-0334/001
2416 Jefferson Avenue	E000-0334/003
2402 Jefferson Avenue	E000-0334/010
1903 O Street	E000-0370/001
1905 O Street	E000-0370/003
1909 O Street	E000-0370/005
900 North 20th Street	E000-0370/013
1924 Carrington Street	E000-0370/015
801 Mosby Street	E000-0370/020
803 Mosby Street	E000-0370/021
805 Mosby Street	E000-0370/022
807 Mosby Street	E000-0370/023
809 Mosby Street	E000-0370/024
811 Mosby Street	E000-0370/026
815 Mosby Street	E000-0370/028
819 Mosby Street	E000-0370/030
821 Mosby Street	E000-0370/031
823 Mosby Street	E000-0370/032
872 North 22nd Street	E000-0372/001

870 North 22nd Street	E000-0372/002
868 North 22nd Street	E000-0372/003
866 North 22nd Street	E000-0372/004
864 North 22nd Street	E000-0372/005
862 North 22nd Street	E000-0372/006
2120 Venable Street	E000-0372/007
2118 Venable Street	E000-0372/012
2116 Venable Street	E000-0372/013
2114 Venable Street	E000-0372/014
2112 Venable Street	E000-0372/015
2110 Venable Street	E000-0372/016
2108 Venable Street	E000-0372/017
2104 Venable Street	E000-0372/018
803 North 21st Street	E000-0372/019
805 North 21st Street	E000-0372/020
809 North 21st Street	E000-0372/022
811 North 21st Street	E000-0372/023
813 North 21st Street	E000-0372/024
8071 North 21st Street	E000-0372/028
2101 Venable Street	E000-0373/001
2105 Venable Street	E000-0373/003
2107 Venable Street	E000-0373/004
2109 Venable Street	E000-0373/005
2111 Venable Street	E000-0373/006
2113 Venable Street	E000-0373/007
2115 Venable Street	E000-0373/008
2115½ Venable Street	E000-0373/009
2117 Venable Street	E000-0373/010
2119 Venable Street	E000-0373/011
2121 Venable Street	E000-0373/012
816 North 22nd Street	E000-0373/013
876 Jessamine Street	E000-0374/001
870 Jessamine Street	E000-0374/005
868 Jessamine Street	E000-0374/006
866 Jessamine Street	E000-0374/007
2222 Venable Street	E000-0374/008
2220 Venable Street	E000-0374/009

2218 Venable Street	E000-0374/010
2216 Venable Street	E000-0374/011
2212 Venable Street	E000-0374/012
2210 Venable Street	E000-0374/014
2208 Venable Street	E000-0374/015
2206 Venable Street	E000-0374/016
2204 Venable Street	E000-0374/017
2202 Venable Street	E000-0374/018
2200 Venable Street	E000-0374/019
863 North 22nd Street	E000-0374/020
865 North 22nd Street	E000-0374/021
867 North 22nd Street	E000-0374/022
869 North 22nd Street	E000-0374/023
871 North 22nd Street	E000-0374/024
873 North 22nd Street	E000-0374/025
872 Jessamine Street	E000-0374/026
874 Jessamine Street	E000-0374/027
2201 Venable Street	E000-0375/001
2205 Venable Street	E000-0375/002
2207 Venable Street	E000-0375/003
2209 Venable Street	E000-0375/004
2211 Venable Street	E000-0375/005
2213 Venable Street	E000-0375/006
2215 Venable Street	E000-0375/007
2217 Venable Street	E000-0375/008
2219 Venable Street	E000-0375/009
2221 Venable Street	E000-0375/010
815 North 22nd Street	E000-0375/012
817 North 22nd Street	E000-0375/013
820 North 23rd Street	E000-0376/001
818 North 23rd Street	E000-0376/003
814 North 23rd Street	E000-0376/005
812 North 23rd Street	E000-0376/006
802 North 23rd Street	E000-0376/007
2230 Cedar Street	E000-0376/009
2228 Cedar Street	E000-0376/010
803 Jessamine Street	E000-0376/011

807 Jessamine Street	E000-0376/012
809 Jessamine Street	E000-0376/014
811 Jessamine Street	E000-0376/015
813 Jessamine Street	E000-0376/016
815 Jessamine Street	E000-0376/017
816 North 23rd Street	E000-0376/018
2309 O Street	E000-0378/001
826 North 24th Street	E000-0378/002
824 North 24th Street	E000-0378/003
822 North 24th Street	E000-0378/004
820 North 24th Street	E000-0378/005
818 North 24th Street	E000-0378/006
816 North 24th Street	E000-0378/007
814 North 24th Street	E000-0378/008
2314 Cedar Street	E000-0378/012
805½ North 23rd Street	E000-0378/022
807 North 23rd Street	E000-0378/023
811 North 23rd Street	E000-0378/024
813 North 23rd Street	E000-0378/026
815 North 23rd Street	E000-0378/028
815½ North 23rd Street	E000-0378/029
817 North 23rd Street	E000-0378/030
817½ North 23rd Street	E000-0378/031
2405 O Street	E000-0379/001
2409 O Street	E000-0379/002
818 North 25th Street	E000-0379/004
816½ North 25th Street	E000-0379/005
816 North 25th Street	E000-0379/006
814 North 25th Street	E000-0379/007
812 North 25th Street	E000-0379/008
810 North 25th Street	E000-0379/010
808 North 25th Street	E000-0379/011
806½ North 25th Street	E000-0379/012
806 North 25th Street	E000-0379/013
804 North 25th Street	E000-0379/014
802 North 25th Street	E000-0379/015
800 North 25th Street	E000-0379/016

2410 Cedar Street	E000-0379/017
2408 Cedar Street	E000-0379/018
2406 Cedar Street	E000-0379/019
2404 Cedar Street	E000-0379/020
801 North 24th Street	E000-0379/021
803 North 24th Street	E000-0379/022
805 North 24th Street	E000-0379/023
807 North 24th Street	E000-0379/024
809 North 24th Street	E000-0379/025
811½ North 24th Street	E000-0379/026
815 North 24th Street	E000-0379/029
817 North 24th Street	E000-0379/030
819 North 24th Street	E000-0379/031
821 North 24th Street	E000-0379/032
823 North 24th Street	E000-0379/033
811 North 24th Street	E000-0379/034
2113 Carrington Street	E000-0423/007
2115 Carrington Street	E000-0423/008
2117 Carrington Street	E000-0423/009
2119 Carrington Street	E000-0423/010
916 Tulip Street	E000-0423/012
912 Tulip Street	E000-0423/014
2242 Venable Street	E000-0423/016
2240 Venable Street	E000-0423/017
2238½ Venable Street	E000-0423/018
2238 Venable Street	E000-0423/019
2236 Venable Street	E000-0423/020
2230 Venable Street	E000-0423/021
2203 Carrington Street	E000-0425/001
2205 Carrington Street	E000-0425/002
2207 Carrington Street	E000-0425/003
2209 Carrington Street	E000-0425/005
978 Pink Street	E000-0425/008
976 Pink Street	E000-0425/009
974 Pink Street	E000-0425/010
972 Pink Street	E000-0425/011
970 Pink Street	E000-0425/012

968 Pink Street	E000-0425/013
966 Pink Street	E000-0425/014
964 Pink Street	E000-0425/015
962 Pink Street	E000-0425/016
2322 Venable Street	E000-0425/017
2320 Venable Street	E000-0425/018
2318 Venable Street	E000-0425/019
2316 Venable Street	E000-0425/020
2314 Venable Street	E000-0425/021
2312 Venable Street	E000-0425/022
2310½ Venable Street	E000-0425/023
2310 Venable Street	E000-0425/024
2308 Venable Street	E000-0425/025
2306 Venable Street	E000-0425/026
2304 Venable Street	E000-0425/027
2302 Venable Street	E000-0425/028
2300 Venable Street	E000-0425/029
909 Tulip Street	E000-0425/030
911 Tulip Street	E000-0425/031
915 Tulip Street	E000-0425/032
917 Tulip Street	E000-0425/033
2223 Venable Street	E000-0426/001
2225 Venable Street	E000-0426/003
2227 Venable Street	E000-0426/006
2229 Venable Street	E000-0426/007
2235 Venable Street	E000-0426/008
2235½ Venable Street	E000-0426/009
2237 Venable Street	E000-0426/010
2239 Venable Street	E000-0426/011
2301 Venable Street	E000-0427/001
2303 Venable Street	E000-0427/002
2305 Venable Street	E000-0427/003
2307 Venable Street	E000-0427/004
2309 Venable Street	E000-0427/005
2311 Venable Street	E000-0427/006
2313 Venable Street	E000-0427/007
2315 Venable Street	E000-0427/008

2319 Venable Street	E000-0427/009
2325 Venable Street	E000-0427/013
2322 Burton Street	E000-0427/014
2314 Burton Street	E000-0427/020
2312 Burton Street	E000-0427/021
2310 Burton Street	E000-0427/022
2308 Burton Street	E000-0427/023
2306 Burton Street	E000-0427/024
2304 Burton Street	E000-0427/025
2302 Burton Street	E000-0427/026
2300 Burton Street	E000-0427/027
908 North 24th Street	E000-0428/001
906 North 24th Street	E000-0428/002
904 North 24th Street	E000-0428/003
902 North 24th Street	E000-0428/004
900 North 24th Street	E000-0428/005
2301 Burton Street	E000-0428/006
922 North 25th Street	E000-0429/001
918 North 25th Street	E000-0429/003
916 North 25th Street	E000-0429/004
914 North 25th Street	E000-0429/005
910 North 25th Street	E000-0429/006
908 North 25th Street	E000-0429/007
906 North 25th Street	E000-0429/008
904 North 25th Street	E000-0429/009
902 North 25th Street	E000-0429/010
900 North 25th Street	E000-0429/011
901 North 24th Street	E000-0429/015
903 North 24th Street	E000-0429/016
905 North 24th Street	E000-0429/017
907 North 24th Street	E000-0429/018
909 North 24th Street	E000-0429/019
(no street address)	E000-0429/020
911 North 24th Street	E000-0429/021
2305 Carrington Street	E000-0470/002
2305½ Carrington Street	E000-0470/003
2307 Carrington Street	E000-0470/004

2309 Carrington Street	E000-0470/005
2311 Carrington Street	E000-0470/006
2315 Carrington Street	E000-0470/007
2317 Carrington Street	E000-0470/009
2321 Carrington Street	E000-0470/011
2323 Carrington Street	E000-0470/012
2325 Carrington Street	E000-0470/013
2327 Carrington Street	E000-0470/014
1016 Russell Street	E000-0470/015
1014 Russell Street	E000-0470/016
2416 Venable Street	E000-0470/019
2414 Venable Street	E000-0470/020
2412½ Venable Street	E000-0470/022
2412 Venable Street	E000-0470/023
2410 Venable Street	E000-0470/024
2408 Venable Street	E000-0470/026
2406 Venable Street	E000-0470/027
2404 Venable Street	E000-0470/028
2402½ Venable Street	E000-0470/029
2402 Venable Street	E000-0470/030
2400 Venable Street	E000-0470/031
961 Pink Street	E000-0470/032
965 Pink Street	E000-0470/033
(no street address)	E000-0470/036
(no street address)	E000-0470/037
(no street address)	E000-0470/038
2403 Carrington Street	E000-0471/001
2411 Carrington Street	E000-0471/007
2413 Carrington Street	E000-0471/008
2415 Carrington Street	E000-0471/009
2417 Carrington Street	E000-0471/010
2419 Carrington Street	E000-0471/011
2421 Carrington Street	E000-0471/012
1116 North 25th Street	E000-0471/014
1114 North 25th Street	E000-0471/017
1102 North 25th Street	E000-0471/018
2438 Venable Street	E000-0471/020

2436 Venable Street	E000-0471/026
2434 Venable Street	E000-0471/027
2432 Venable Street	E000-0471/028
2430 Venable Street	E000-0471/029
2428 Venable Street	E000-0471/030
2426 Venable Street	E000-0471/031
2418 Venable Street	E000-0471/035
1118 North 25th Street	E000-0471/038
1120 North 25th Street	E000-0471/039
2407 Venable Street	E000-0472/005A
2415 Venable Street	E000-0473/001
2417 Venable Street	E000-0473/002
2423 Venable Street	E000-0473/004
1006 North 25th Street	E000-0473/007
1000 North 25th Street	E000-0473/012

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(36a); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:39. Valentine Museum and Wickham-Valentine House Old and Historic District (1005-1015 East Clay Street).

The boundaries of such district are as follows: beginning at the intersection of the south line of East Clay Street and the east line of North Tenth Street; thence in a southerly direction along the east line of North Tenth Street 172.44 feet more or less to the north line extended of an east-west alley between East Clay Street and East Marshall Street; thence in an easterly direction along said line extended to the west line of North Eleventh Street; thence in a northerly direction 172.44 feet more or less along the west line of North Eleventh Street to the south line of East Clay Street; thence in a westerly direction along the south line of East Clay Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(37); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:40. Virginia House Old and Historic District (4301 Sulgrave Road).

The boundaries of such district are as follows: beginning at the intersection of the south line of Sulgrave Road and the west line of Arthur's Seat (Wakefield Road extended), thence in a southerly direction 181 feet more or less along the west line of Arthur's Seat to a point on the south line of parcel W022-0385-001 (as assigned by the Assessor of the City, as of May 11, 1970, for tax purposes); thence in a westerly direction 184 feet more or less along said property line to a point on the west property line of said parcel; thence in a northerly direction along said property line 221 feet more or less to the south line of Sulgrave Road; thence in an easterly direction along the south line of Sulgrave Road to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(38); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:41. West Franklin Street Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the west line of North Harrison Street and the south line of an east-west alley between West Franklin Street and West Avenue; thence in a westerly direction along the said line to the east line of Birch Street; thence in a northerly direction along the east line of Birch Street to the south line of West Franklin Street; thence in an easterly direction along the south line of West Franklin Street to a point on the west property line extended of parcel W000-0614-025 (as assigned by the Assessor of the City, as of November 12, 1990, for tax purposes), said point being 223 feet more or less west of the west line of Ryland Street; thence in a northerly direction along said property line extended to the north line of an alley between West Franklin Street and West Grace Street; thence in an easterly direction along said line to the west line of North Harrison Street; thence in a southerly direction along the west line of North Harrison Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(39); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:42. West Grace Street Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the east line of Ryland Street and the north line extended of an east-west alley between West Broad Street and West Grace Street; thence in a southerly direction along said east line across West Grace Street to the north line extended of an east-west alley between West Grace Street and West Franklin Street/Monument Avenue; thence in a westerly direction along said north line to the west line of a ten-foot north-south private alley, said west line being 90.03 feet more or less east of the east line of North Boulevard; thence in a northerly direction 57.5 feet more or less along said west line to the south line of an east-west private alley; thence in a westerly direction 10.0 feet more or less along said south line to the west property line extended of parcel W000-1210/003 (as assigned by the Assessor of the City, as of June 24, 1996, for tax purposes); thence in a northerly direction along said west property line to the south line of West Grace Street; said west property line being 110.78 feet more or less east of the east line of North Boulevard; thence in a northwesterly direction across West Grace Street to the intersection of the north line of West Grace Street and the west property line of parcel W000-1214/046 (as assigned by the Assessor of the City, as of June 24, 1996, for tax purposes); said line being 71.67 feet more or less east of the east line of North Boulevard; thence in a northerly direction along said west property line extended to the north line of an east-west alley between West Broad Street and West Grace Street; thence in an easterly direction along said north line extended to the east line of Ryland Street, the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(40); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:43. White House of the Confederacy Old and Historic District (1201 East Clay Street).

The boundaries of such district are as follows: beginning at the intersection of the south line of East Clay Street and the east line of North Twelfth Street; thence in an easterly direction along the south line of East Clay Street S 54°09'11" E 101.30 feet to a point; thence in a southerly direction S 36°42'02" W 60.35 feet to a point, being a point of curvature; thence along an arc 33.76 feet along a curve deflecting to the right with a radius of 20.00 feet, a central angle of 96°42'56", and a chord bearing and distance of S 85°03'28" W 29.89 feet, to a point; thence S 36°30'32" W 42.82 feet to a point, thence N 53°29'28" W 2.97 feet; thence S 36°40'52" W 5.51 feet to a point; thence N 53°19'08" W 48.15 feet to a point; thence S 36°21"23" W 5.42 feet to a point; thence in a westerly direction N 53°07'02" W 27.51 feet to a point lying on the east line of North Twelfth Street; thence in a northerly direction along the east line of North Twelfth Street N 36°29'04" E 132.40 feet to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(41); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:44. Wilton Old and Historic District (215 South Wilton Road).

The boundaries of such district are as follows: beginning at a point on the southern terminus line of South Wilton Road, said point being 30 feet more or less east of the terminus of the west line of South Wilton Road, said point also being at the west property line of parcel W022-0127-001 (as assigned by the Assessor of the City, as of April 15, 1985, for tax purposes); thence in an easterly direction along the southern terminus line of South Wilton Road and the north property line of said parcel extended 230 feet more or less to a point on the east property line of said parcel; thence in a southerly direction along said property line 458 feet more or less to a point on the south property line of said parcel; thence in a westerly direction along said property line to a point on the west property line of said parcel; thence in a northerly direction along said property line 428.50 feet more or less to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(42); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:45. Joseph P. Winston House Old and Historic District (103 East Grace Street).

The boundaries of such district are as follows: beginning at the intersection of the east line of North First Street and the south line of East Grace Street; thence in an easterly direction along the south line of East Grace Street 64 feet more or less to the east property line of parcel W000-0063-002 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes); thence in a southerly direction along said property line to a point on the south line of an east-west alley between East Grace Street and East Franklin Street, said point being 64 feet more or less east of the east line of North First Street; thence in a westerly direction along said line to the east line of North First Street; thence in a northerly direction along the east line of North First Street to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(43); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:46. Woodward House-Rocketts Old and Historic District (3017 Williamsburg Avenue).

The boundaries of such district are as follows: beginning at the intersection of the north line of East Main Street with the south line of Williamsburg Avenue; thence in an easterly direction along the south line of Williamsburg Avenue 834.06 feet more or less to a point on the east property line of parcel E000-0584-001 (as assigned by the Assessor of the City, as of January 9, 1978, for tax purposes); thence in a southerly direction along said property line 35.83 feet more or less to the Southern Railway right-of-way; thence in a westerly direction along the Southern Railway right-of-way to a point; thence in a northerly direction along said right-of-way 49.30 feet more or less to a point; thence in a westerly direction along said right-of-way 148 feet more or less to the north line of East Main Street; thence in a northwesterly direction along the north line of East Main Street 96.24 feet more or less to the point of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(44); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Sec. 30-930.5:47. Zero Blocks East and West Franklin Street Old and Historic District.

The boundaries of such district are as follows: beginning at the point of intersection of the south line of West Main Street and the west line of North Adams Street; thence in a northerly direction along the west line of North Adams Street to the north line extended of a 15.16-foot east-west alley between West Franklin Street and West Grace Street; thence in an easterly direction along said line extended to the east line of North Foushee Street; thence in a northerly direction along the east line of North Foushee Street 64.50 feet more or less to the south line of a ten-foot east-west alley south of East Grace Street; thence in an easterly direction along said line 60.67 feet more or less to the east property line of parcel W000-0083-026 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes); thence in a southerly direction along said property line and the east property line of parcel W000-0083-024 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes) to the north line

of a 14.59-foot east-west alley between East Franklin Street and East Grace Street; thence in an easterly direction along said line 137.61 feet more or less to the west property line of parcel W000-0083-010 (as assigned by the Assessor of the City, as of March 23, 1987, for tax purposes); thence in a northerly direction along said property line to the south line of East Grace Street; thence in an easterly direction along the south line of East Grace Street to the east line of North First Street; thence in a southerly direction along the east line of North First Street to the south line of East Main Street; thence in a westerly direction along the south line of East Main Street to the point of beginning; but excepting from the above-described land, two parcels known, numbered and designated as 1 and 3 East Franklin Street, said parcels being more particularly described as follows: 1 East Franklin Street: beginning at the point of intersection of the eastern line of Foushee Street with the southern line of Franklin Street; thence extending along the southern line of Franklin Street south 53 degrees 00 minutes east 35.62 feet to a cross in the pavement on the southern line of Franklin Street; thence extending south 37 degrees 16 minutes west 156.88 feet to a rod on the north line of an alley 16 feet, more or less, in width; thence extending along the northern line of the aforesaid alley north 52 degrees 55 minutes 24 seconds west 34.93 feet to a spike at the intersection of the north line of the aforesaid alley and the eastern line of Foushee Street; thence extending along the eastern line of Foushee Street north 37 degrees 00 minutes 45 seconds east 156.83 feet to the point and place of beginning; 3 East Franklin Street: beginning at a spike on the southern line of Franklin Street, said spike being south 53 degrees 00 minutes east a distance of 67.79 feet from the point marking the intersection of the southern line of Franklin Street and the eastern line of Foushee Street; thence extending south 37 degrees 21 minutes 20.00 seconds west 156.92 feet to a rod on the northern line of an alley 16 feet, more or less, in width; thence extending along the northern line of the aforesaid alley north 52 degrees 55 minutes 24 seconds west 31.92 feet to a rod on the northern line of the aforesaid alley; thence extending north 37 degrees 16 minutes east 156.88 feet to a point on the southern line of Franklin Street, which point is marked by a cross in the pavement; thence extending along the southern line of Franklin Street south 53 degrees 00 minutes east 32.17 feet to a spike marking the point and place of beginning.

(Code 1993, § 32-930.5; Code 2004, § 114-930.5; Code 2015, § 30-930.5(45); Ord. No. 2004-141-105, § 1, 5-24-2004; Ord. No. 2005-163-187, § 1, 9-12-2005; Ord. No. 2005-256-227, § 1, 10-24-2005; Ord. No. 2007-142-104, § 1, 5-29-2007; Ord. No. 2009-203-207, § 1, 11-23-2009; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2017-072, § 1, 4-10-2017; Ord. No. 2018-181, § 1, 7-23-2018)

Editor's note—Ord. No. 2005-256-227, adopted October 24, 2005, provided that no conditions attached to a certificate of appropriateness issued by the Commission of Architectural Review shall deny any owners of property classified as of October 24, 2005, as R-73 Multifamily Residential in the Springhill Old and Historic District the right to construct multifamily buildings as set forth in Section 30-420.8.

Sec. 30-930.6. Certificate of appropriateness.

(a) *Approval required.* No building or structure or any exterior portion thereof, sign or paving shall be constructed, altered, reconstructed, repaired, restored or demolished within any old and historic district unless the building or structure or any exterior portion thereof, sign or paving is approved by the Commission of Architectural Review or, on appeal, by the City Council, as being architecturally compatible with the buildings, structures, sites and general character of the old and historic district. All such approvals shall be evidenced by a certificate of appropriateness. No permit to construct, alter, reconstruct, repair, restore or demolish any building, structure or site shall be issued by the Commissioner of Buildings unless the applicant has first obtained approval of a certificate of appropriateness for such work.

(b) *Submission of application.* An application for certificate of appropriateness required pursuant to this section shall be submitted to the Secretary of the Commission of Architectural Review in writing by the owner of such building or structure. When a work-in-street, land-disturbing, building, sign or demolition permit is required, the applicant shall apply for other necessary permits at the same time an application for a certificate of appropriateness is submitted. The application for such certificate of appropriateness shall be accompanied by a fee as set forth below and plans and specifications which shall show the proposed exterior architectural features of such building or structure, which shall include but, shall not be limited to, the design, arrangement, texture, materials and color proposed to be used in the construction, alteration, reconstruction, repair, restoration, or demolition of the building or structure and the type of windows, exterior doors, lights, signs, site improvements, and other exterior fixtures and appurtenances. Upon the filing of such application with the Secretary of the Commission, the Secretary shall promptly transmit it with such plans and specifications to the Commission.

(1)	Full demolition	$1,500.00
(2)	New construction of or an addition to a single- or two-family dwelling, or accessory building	$250.00
(3)	New construction of or an addition to a building, other than for a single- or two-family dwelling or accessory building	$500.00
(4)	Amendments to previous certificates of appropriateness concerning non-structural alterations, changes to signage, and changes to plans	$150.00
(5)	Extension of a certificate of appropriateness	$25.00

(c) *Approval or disapproval of application and issuance.* Upon receipt of a completed certificate of appropriateness application pursuant to this section, the of Architectural Review Commission shall approve or disapprove such and, if approved, shall issue a certificate of appropriateness therefor, with or without conditions or with such modifications of the plans and specifications as the Commission of Architectural Review deems necessary to execute the purpose set forth in Section 30-930.2 and to require compliance with the regulations set out in this division. Otherwise, such plans and specifications shall be deemed rejected, and the Commission shall not issue a certificate of appropriateness.

(d) *Conceptual review.* Any person may request the Commission of Architectural Review to review conceptual design proposals for exterior work before submitting a formal application for a certificate of appropriateness required pursuant to this section. The Commission shall review and discuss the proposal with the applicant and make any necessary recommendations. Such conceptual review shall be advisory only.

(e) *Notification to public.* The Secretary shall use the following procedures in notifying the public of cases for certificates of appropriateness being considered by the Commission of Architectural Review:

(1) *General notification.* A concise agenda, listing all items to be reviewed by the Commission of Architectural Review and the date, time and place of the Commission meeting shall be published at least seven days prior to the meeting in a daily newspaper of general circulation in the City.

(2) *Direct notification of affected property owners.* When a certificate of appropriateness application involves a substantial impact, as defined in Section 30-930.1, in an old and historic district, the property owners of all property or portions of property located within 150 feet of the project shall be notified of the prospective change and of the date, time, and place of the meeting at which such change shall be considered by the Commission. Such notice shall be by regular mail and mailed at least seven days prior to the meeting.

(f) *Scope of review.* A certificate of appropriateness shall be required for all alterations to a building, structure, or site which is subject to a public view.

(g) *Reasons for Commission action.* The Commission of Architectural Review shall state clearly its reasons for approval, denial, modification, or deferral of an application for a certificate of appropriateness in the records of the Commission proceedings.

(h) *Delegation of applications for review by Commission Secretary.* The Commission of Architectural Review may choose to delegate certain types of applications for a certificate of appropriateness for review by the Secretary. The Commission shall designate such items which are subject to review and shall issue guidelines for the Secretary to conduct the review. Any application for a certificate of appropriateness for any such designated design feature may be approved by the Secretary of the Commission without full Commission action, unless the Secretary finds that a particular structure has unique characteristics that may call for a different design treatment. In such cases, the Secretary shall schedule the application for Commission consideration at its next meeting. The Secretary shall keep a record of all such approvals and shall provide the Commission with a report of all new approvals at each of its regular meetings.

(i) *Normal maintenance and repair.* Nothing in this division shall be construed to prevent the normal repair

and maintenance of any exterior architectural feature located in an old and historic district.

(j) *Unsafe and dangerous conditions.* Nothing in this division shall be construed to prevent the construction, reconstruction, alteration or demolition of any such building or feature which the Commissioner of Buildings shall determine is required for public safety because of an unsafe or dangerous condition. Upon the determination of such a condition, the Commissioner of Buildings shall provide notice to the Commission of Architectural Review.

(k) *Payment of delinquent real estate taxes.* Approval of a certificate of appropriateness pursuant to this section shall not be granted until satisfactory evidence has been presented to the Secretary of the Commission of Architectural Review that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 1993, § 32-930.6; Code 2004, § 114-930.6; Code 2015, § 30-930.6; Ord. No. 2020-079, §§ 1, 2, 5-11-2020)

Sec. 30-930.7. Standards and guidelines.

(a) *General standards.* The Commission of Architectural Review shall issue a certificate of appropriateness for alterations that are compatible with a property and the old and historic district of which it is a part. Each old and historic district contains buildings of varying architectural and historic significance. The Commission shall evaluate the significance of each property on a case-by-case basis. The historic character of each old and historic district shall be the primary consideration of the Commission in reviewing proposed designs for the district. The Commission may adopt additional standards for the review of certificates of appropriateness to supplement these standards.

(b) *Standards for rehabilitation.* The Commission of Architectural Review shall issue a certificate of appropriateness for the rehabilitation of a property, if it determines that a proposed change is compatible with the property and with the old and historic district of which it is a part. The historic design, features, materials, finishes and craftsmanship of a property shall be preserved whenever possible. Significant historic features of a property shall be treated with care. The Commission may require that existing materials, decorative elements, and structural elements be repaired rather than replaced. The Commission may adopt additional rehabilitation standards for the review of certificates of appropriateness to supplement these standards.

(c) *Standards for new construction.* The Commission of Architectural Review shall approve new construction which it deems to be compatible with the design, scale, materials, color, height, setback, and other pertinent features of the old and historic district in which it is located. The Commission may adopt additional new construction standards for the review of certificates of appropriateness to supplement these standards.

(d) *Standards for demolition.* The Commission of Architectural Review shall not issue a certificate of appropriateness for demolition of any building or structure within an old and historic district, unless the applicant can show that there are no feasible alternatives to demolition. The demolition of historic buildings and elements in old and historic districts is strongly discouraged. The demolition of any building deemed by the Commission to be not a part of the historic character of an old and historic district shall be permitted. The demolition of any building that has deteriorated beyond the point of being feasibly rehabilitated is permissible, where the applicant can satisfy the Commission as to the infeasibility of rehabilitation. The Commission may adopt additional demolition standards for the review of certificates of appropriateness applications to supplement these standards.

(e) *Standards for site improvements.* The Commission of Architectural Review shall issue a certificate of appropriateness for site improvements it deems to be appropriate to the character of the property and to the old and historic district of which it is a part. The Commission may adopt additional site improvement standards for the review of certificates of appropriateness to supplement these standards.

(f) *Standards for signage.* The Commission of Architectural Review shall issue a certificate of appropriateness for signage, the type, size, material, style, and lighting of which is appropriate to the character of the property and to the old and historic district of which it is a part. The Commission may adopt additional signage standards for the review of certificates of appropriateness to supplement these standards.

(g) *Adoption of architectural guidelines.* The Commission of Architectural Review may adopt architectural guidelines for any old and historic district to assist the public and the Commission in planning for and reviewing exterior modifications within such district. Such guidelines shall be advisory only and shall not replace the review required by this division.

(h) *Architectural guidelines for use by Secretary.* The Commission of Architectural Review may adopt design guidelines for any old and historic district which set forth standard design features that shall be uniformly applicable within such district by the Secretary conducting a review pursuant to Section 30-930.6(h).

(Code 1993, § 32-930.7; Code 2004, § 114-930.7; Code 2015, § 30-930.7)

Sec. 30-930.8. Appeal of decision granting or refusing to grant certificate of appropriateness.

(a) *Appeal to City Council.* Any person aggrieved by a decision of the Commission of Architectural Review pertaining to issuance or denial of a certificate of appropriateness pursuant to this division may appeal such decision to the City Council, by filing a petition with the City Clerk. A fee of $150.00 used for a single-family dwelling and $500.00 used as other than a single-family dwelling shall accompany each petition, which fee shall be paid into the City treasury. The City Clerk shall send copies of the petition to each member of the City Council and to the Secretary of the Commission. The petition shall set forth in writing the alleged errors or illegality of the Commission's action and the grounds thereof, specifically including any and all procedures, standards or guidelines alleged to have been violated or misapplied by the Commission. The petition shall be filed within 15 days after the final decision of the Commission approving or disapproving issuance of a certificate of appropriateness. The filing of the petition shall stay all proceedings from the decision appealed, except that a decision denying a request for demolition in an old and historic district shall not be stayed.

(b) *Procedure on appeal to City Council.* Within 15 days of the filing of the petition pursuant to this section, the Commission of Architectural Review shall file with the City Clerk certified or sworn copies of the record of its action and documents considered by it in making the decision being appealed. With the record and documents, the Commission may produce in writing such other facts as may be pertinent and material to show grounds of the decision appealed, verified by affidavit. The City Clerk shall send copies of all information filed by the Commission to each member of the City Council.

(c) *Review by City Council.* The City Council shall review the petition, record, documents, and other materials produced by the Commission of Architectural Review pursuant to this section, and the City Council may reverse or modify the decision appealed, in whole or in part, by resolution when it is satisfied that the decision of the Commission is in error under this division, or, by taking no action, the City Council may affirm the decision of the Commission. If the City Council finds that the testimony of witnesses is necessary for a proper disposition of the matter, it may hear evidence. The failure of the City Council to modify or reverse the decision of the Commission within 75 days, excluding City holidays and days on which the City government is closed due to a local emergency properly declared, from the date the petition is filed shall be deemed to constitute affirmation of the Commission's decision, unless:

(1) All parties to the appeal agree in writing to extend such period of time, in which case such period of time shall be extended as provided in the agreement; or

(2) A resolution has been introduced to modify or reverse the decision of the Commission and the meeting of the City Council at which the resolution is first scheduled for a public hearing occurs after the expiration of such period of time, in which case such period of time shall be extended until the date of the next meeting of the City Council at which the resolution is scheduled for a public hearing.

(d) *Appeal to Circuit Court.* Any person with standing may appeal a decision of the City Council to affirm, modify or reverse a decision of the Commission made pursuant to this division to the circuit court for review by filing a petition at law. The petition shall set forth in writing the alleged illegality of the action of the City Council and the grounds thereof, specifically including any and all procedures, standards or guidelines alleged to have been violated or misapplied by the City Council. The petition shall be filed within 30 days after the decision of the City Council. The filing of the petition shall stay the decision of the City Council, except that a decision denying a request for demolition in an old and historic district shall not be stayed. A copy of the petition shall be delivered to the City Clerk, who shall file with the circuit court a certified or sworn copy of the records and documents considered by the City Council.

(e) *Review by Circuit Court.* The Circuit Court shall review the record, documents and other materials filed by the City Clerk pursuant to this section. The Circuit Court may reverse or modify the decision of the City Council, in whole or in part, if it finds upon review that the decision of the City Council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or the court may affirm the decision of the City Council.

(Code 1993, § 32-930.8; Code 2004, § 114-930.8; Code 2015, § 30-930.8; Ord. No. 2010-186-199, §§ 1, 3, 11-22-2010; Ord. No. 2012-30-111, § 1, 7-23-2012)

Sec. 30-930.9. Additional rights of owners to demolish certain properties.

(a) *Procedures.* The following are procedures entitling owners to demolish properties:

(1) In addition to the right of appeal set forth in Section 30-930.8, the owner of a building or structure, the razing or demolition of which is subject to review under this division, shall, as a matter of right, be entitled to raze or demolish such building or structure provided that:

a. The owner has applied to the Commission of Architectural Review and, if denied, to the City Council for such right;

b. The owner has, for the period of time set forth in the time schedule established in subsection (b) of this section and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building or structure and the land pertaining thereto to the City or to any person, any other government body, firm or corporation which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto; and

c. No bona fide contract binding upon all parties thereto shall have been executed for the sale of any such landmark, building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule contained in subsection (b) of this section.

(2) Any appeal which may be taken to the court from the decision of the City Council, whether instituted by the owner or by any other proper party, notwithstanding the sections of this division relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to in this section. No offer to sell shall be made more than 12 months after a final decision by the City Council, but thereafter the owner may renew the request to the City Council to approve the razing or demolition of the historic landmark, building or structure.

(b) *Time schedule.* The time schedule for offers to sell pursuant to this section shall be as follows:

(1) Three months when the offering price is less than $25,000.00;

(2) Four months when the offering price is $25,000.00 or more but less than $40,000.00;

(3) Five months when the offering price is $40,000.00 or more but less than $55,000.00;

(4) Six months when the offering price is $55,000.00 or more but less than $75,000.00;

(5) Seven months when the offering price is $75,000.00 or more but less than $90,000.00; and

(6) Twelve months when the offering price is $90,000.00 or more.

(c) *Notice required.* Before making a bona fide offer to sell as provided for in this section, an owner shall first file a statement with the Secretary of the Commission of Architectural Review, and the owner shall publish the notice twice, not less than seven days apart, in a daily newspaper of general circulation in the City. The statement shall identify the property, shall state the offering price, and shall state the date that the offer for sale is to begin and the name of the real estate agent, if any. No time period set forth in this section shall begin to run until the statement has been both filed and published.

(Code 1993, § 32-930.9; Code 2004, § 114-930.9; Code 2015, § 30-930.9)

DIVISION 5. DESIGN OVERLAY DISTRICTS

Sec. 30-940. Purpose.

The purpose of creating a design overlay district is to protect developed areas of the City characterized by uniqueness of established neighborhood character, architectural coherence and harmony, or vulnerability to deterioration. This is accomplished through controlling the patterns of architectural design and development in residential and commercial neighborhoods, which may include new construction, alterations, and demolitions. Only exterior changes to buildings, structures and sites within public view may be regulated. If the demolition of buildings and structures is regulated, as defined by district design guidelines, only buildings and structures deemed to be

noncontributing to the general neighborhood character may be demolished. To achieve the general purpose set forth in this division, the City seeks to pursue the following specific purposes:

(1) Protection of existing architectural massing, composition and styles as well as neighborhood scale and character.

(2) Compatibility of new construction and structural alterations with the existing scale and character of surrounding properties.

(3) Preservation of streetscapes, open spaces and natural features.

(Code 1993, § 32-940; Code 2004, § 114-940; Code 2015, § 30-940)

Sec. 30-940.1. Applicability of division.

This division shall apply generally to designated design overlay districts and are for the purpose of setting forth the means of establishing and administering such districts as allowed by Section 17.11(a1) of the Charter. Fees may be created for the establishment, amendment and administration of design overlay districts.

(Code 1993, § 32-940.1; Code 2004, § 114-940.1; Code 2015, § 30-940.1)

Sec. 30-940.2. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any change, modification or addition to the structure, materials, color, texture or details of all or a part of the exterior of any building, structure, or site other than normal repair, maintenance, and landscaping.

Contributing building or structure means any building or structure as defined by criteria in the National Register of Historic Places or other criteria as may be determined by district design guidelines.

Demolition means the dismantling or tearing down of all or a part of any building or structure and all operations, including grading, incidental thereto.

Design overlay district means any portion of the City designated in accordance with this division.

Exterior architectural features means the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color; the kind and texture of the building material; the type and style of all windows, doors, light fixtures, signs, decorative features; and other appurtenances that are subject to public view.

New construction means any construction within a design overlay district which is independent of an existing structure or building or an expansion of an existing structure or building.

Normal repair and maintenance means any work involving the replacement of existing work with equivalent material, design, color, and workmanship for the purpose of maintaining the existing condition of the building, structure or site.

Public view means that which is visible from a public right-of-way.

(Code 1993, § 32-940.2; Code 2004, § 114-940.2; Code 2015, § 30-940.2; Ord. No. 2010-94-80, § 1, 5-10-2010)

Cross reference—Definitions generally, § 1-2.

Sec. 30-940.3. Urban Design Committee.

(a) *Established.* There is hereby created and established an Urban Design Committee, in this division referred to as the "Committee."

(b) *Composition; terms of office; compensation.* The Urban Design Committee shall consist of 11 members who either reside in the City or have their primary place of business in the City. Members shall be appointed by City Council. Appointments of Committee members shall be as follows:

(1) One of the members shall be a registered architect;

(2) One shall be a member of a community-focused organization or business;

(3) One shall be a member of the faculty of a design or arts division of a local college or university;

(4) One shall be a registered professional engineer;

(5) One shall be an urban designer or urban planner;

(6) One shall be a registered landscape architect;

(7) One shall be a member of the City Planning Commission;

(8) One shall be a member of the Commission of Architectural Review;

(9) Two shall be citizens of the City appointed at large; and

(10) One shall be a member with demonstrated arboriculture or forestry expertise or a member of the Urban Forestry Commission.

Members shall be appointed for terms of office of three years from the date of appointment; provided, however, that members who are also members of the Planning Commission or of the Commission of Architectural Review shall be appointed for terms coincident with their terms on such Commissions. Vacancies on the Committee shall be filled in the same manner as provided in this section. The members of the Committee shall serve as such without compensation.

(c) *Secretary.* The Director of the Department of Planning and Development Review shall appoint a Secretary for the Urban Design Committee, who shall be a qualified employee of that Department. The Secretary, in addition to other assigned duties, shall keep a record of all actions and proceedings of the Committee.

(d) *Responsibilities and duties.* The Urban Design Committee shall, upon request of the Planning Commission, advise the Commission on matters of an aesthetic nature in connection with the performance of the duties of the Commission under Sections 17.05, 17.06, and 17.07 of the Charter and in any other matter requested by the Commission. The Committee shall also have the power and authority to review and approve or disapprove applications for design overlay district design review as established in this division. In addition, the Committee shall have the following duties to carry out the responsibilities set forth in this section:

(1) Hold regular meetings and other meetings as needed.

(2) Adopt design guidelines applicable to properties in connection with the performance of the duties of the Planning Commission, except for design guidelines for specific design overlay districts.

(3) Adopt procedures which allow for the delegation of the review, approval, or disapproval of applications to the Secretary.

(e) *Rules of procedure.* The Urban Design Committee shall be authorized to adopt rules of procedure for the transaction of its business and implementation of the purposes of this division. The rules of procedure shall not conflict with this division.

(Code 1993, § 32-940.3; Code 2004, § 114-940.3; Code 2015, § 30-940.3; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2020-171, § 1(30-940.3), 9-28-2020)

Cross reference—Boards, commissions, committees and other agencies, § 2-767 et seq.

Sec. 30-940.4. Process for designation.

(a) *Scope.* In the City there may be created design overlay districts which shall be an overlay to the other zoning districts into which the City is divided. The boundaries of any districts created shall be shown on the official zoning map on file with the Department of Planning and Development Review and may be amended from time to time by the City Council, which map is incorporated in this division by reference and made a part of this division. Materials documenting the process of establishing a design overlay district shall be kept in the files of the Department of Planning and Development Review. The Director of the Department of Planning and Development Review may establish additional procedures for the establishment of design overlay districts. The adoption, amendment or repeal of any boundaries of a design overlay district shall comply with and shall be subject to all procedures and criteria set forth in the Charter applicable to the adoption, amendment or repeal of the comprehensive zoning plan.

(b) *Requests by neighborhood organization; report.* Any neighborhood organization which has

demonstrated a broad representation and membership may request design overlay district designation for its neighborhood. The neighborhood organization requesting designation must submit a written report to the Director of the Department of Planning and Development Review which contains the following:

(1) The name of the neighborhood organization representing the interest of property owners in the proposed area, and one contact person's name, street address, and daytime phone number.

(2) A justification of why design overlay district designation is needed.

(3) A statement of the neighborhood's goals and an explanation of how design overlay district designation will meet these goals.

(4) A description of the following in the neighborhood:

a. Unique established neighborhood character;

b. Architectural coherence and harmony; and

c. Vulnerability to deterioration.

(5) A simple inventory of the neighborhood's unique characteristics including building characteristics, descriptions, significant details, date of construction, types of land uses, property addresses, etc. Color photographs documenting the characteristics must be included in the report.

(6) A reproducible map showing the proposed district's boundaries with street names clearly displayed and an explanation of why the boundaries are appropriate.

(7) A draft of specific design guidelines for the proposed design overlay district and how the guidelines relate to inventory characteristics.

(8) A statement of the level of neighborhood and property owner support for design overlay district designation.

(9) A description of the neighborhood organization's activities reflecting progress towards design overlay district designation to date.

(10) Any additional information that the Director of the Department of Planning and Development Review or designated staff determines to be necessary.

(c) *Public information meeting.* The staff of the Department of Planning and Development Review shall review the report submitted by the neighborhood organization pursuant to subsection (b) of this section. Upon acceptance of the form and content of the report, the staff shall notify the neighborhood so a public information meeting may be called. The public information meeting shall be sponsored by the neighborhood organization with assistance from staff of the Department of Planning and Development Review. The neighborhood organization shall provide written notice of the public information meeting to all property owners within the proposed design overlay district. In addition, notice of the public meeting shall be published by the neighborhood organization once in a daily newspaper of general circulation in the City and not less than 14 days prior to the date of the public information meeting.

(d) *Review of proposed designation.* Pursuant to this section, the neighborhood organization shall notify the property owners by mail and solicit, by return mail to the Department of Planning and Development Review, a response of support or opposition to the proposed design overlay district designation. If the majority of the responding property owners indicate support for the designation, the neighborhood organization's report shall be presented to the Urban Design Committee and the Planning Commission. Upon a favorable recommendation of the Planning Commission, an ordinance shall be prepared designating the design overlay district. A separate ordinance shall be required for each design overlay district. The ordinance shall be reviewed by the Urban Design Committee which shall forward a recommendation to the Planning Commission which shall review the ordinance and forward a recommendation to the City Council. The City Council shall take final action on the proposed design overlay district after holding a public hearing.

(e) *Relation to other districts.* Design overlay districts shall be in addition to the underlying zoning and shall be applied to overlay and shall be superimposed on other zoning districts as permitted by this chapter and shown on the official zoning map. Any property lying within a design overlay district shall also lie within one or more of

such other zoning districts, which shall be known as underlying districts.

(f) *Application of district regulations.* Each design overlay district is established to create a review process as provided in this division. In all other respects, the land use regulations normally applicable within the underlying zoning district shall apply to property within the boundaries of the design overlay district.

(Code 1993, § 32-940.4; Code 2004, § 114-940.4; Code 2015, § 30-940.4; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-940.5. Specific districts established and designated.

This division shall be applicable within the following districts, which are hereby established and designated as design overlay districts:

West of the Boulevard Design Overlay District. The boundaries of such district are as shown on the official zoning map, entitled "Zoning District Map 2008."

(Code 1993, § 32-940.5; Code 2004, § 114-940.5; Code 2015, § 30-940.4; Ord. No. 2010-94-80, § 1, 5-10-2010)

Sec. 30-940.6. Design guidelines of specific districts.

Each design overlay district shall have its own specific design guidelines which are developed by the neighborhood organization requesting design overlay district designation. The design guidelines shall further the specific purposes of design overlay district designation as set forth in the neighborhood organization's written report as required in Section 30-940.4(b). Nothing in the design guidelines is intended to usurp the rights that property owners have under this chapter. Where the design guidelines are more restrictive than this chapter, the design guidelines are considered to be recommendations only. The design guidelines for a specific design overlay district shall be reviewed by the Urban Design Committee and shall be adopted by resolution of the Planning Commission after holding a public hearing. The design guidelines may be amended by resolution of the Planning Commission after holding a public hearing. The Director of the Department of Planning and Development Review may establish additional procedures for giving public notice.

(Code 1993, § 32-940.6; Code 2004, § 114-940.6; Code 2015, § 30-940.6; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-940.7. Process for administration.

(a) *Approval required.* No building or structure or any exterior portion thereof, sign or driveway shall be constructed, altered, reconstructed, repaired, restored or demolished within any design overlay district unless the building or structure or any exterior portion thereof, sign or driveway is approved by the designee of the Urban Design Committee or, on appeal, by the Urban Design Committee or the City Council, as being consistent with the purpose set forth in the adopted design guidelines of the particular design overlay district in which the property is situated. All such approvals shall be evidenced by a certificate of approval. No permit to authorize any new construction, alteration or demolition or to erect any sign or to install any driveway shall be issued by the responsible City agency unless the applicant has first obtained a certificate of approval for such work.

(b) *Scope of review.* A certificate of approval shall only be required for such new construction, demolition or alterations to a building, structure or site which are within public view and are specifically described in the adopted design guidelines for the particular design overlay district, as established in this division, in which the property is situated.

(c) *Administration generally.* Design overlay districts shall be administered through the building permit and certificate of zoning compliance application processes in accordance with Article X, Divisions 2 and 3 of this chapter, and such other permit approval processes of any agency of the City that affect any feature of the district design guidelines established in this division. Applications for all such permits on properties situated in a design overlay district shall be forwarded to the Zoning Administrator by the responsible City agency. The Zoning Administrator shall determine if a certificate of approval is required by the adopted design guidelines as provided for by Section 30-940.4(b)(7) for the particular design overlay district in which the property is situated and, if such determination is made, the Zoning Administrator shall forward the plans to an appointed designee of the Urban Design Committee for review. The Director of the Department of Planning and Development Review may establish additional procedures and guidelines for the administration of design overlay districts.

(d) *Conceptual review of plans.* Pursuant to this division, any person may request a conceptual design review

of the proposal for exterior work, before submitting for a building permit, certificate of zoning compliance or other applicable permit or approval. The appointed designee of the Urban Design Committee may review and discuss the proposal with the applicant and make any necessary recommendations. Such conceptual review shall be advisory only.

(e) *Permit review and additional submission requirements.* Upon receipt of a complete application for a building permit, certificate of zoning compliance or other applicable permit or approval for a building, structure or other feature located on property within a designated design overlay district, the appointed designee of the Urban Design Committee shall review the plans for conformance with the adopted design guidelines for the particular design overlay district as established in this division. In order to determine conformance with the adopted design guidelines, the applicant may be required to submit additional information on the proposed exterior architectural features of the building, structure or feature, which may include, but shall not be limited to, the design, arrangement, texture, materials, and color proposed to be used and the type of windows, exterior doors, lights, signs, site improvements, and other exterior fixtures and appurtenances.

(f) *Approval or disapproval of application and issuance of certificate of approval.* Upon review of plans for conformance with the adopted design guidelines of a particular design overlay district, the appointed designee of the Urban Design Committee shall approve, with or without conditions, or shall disapprove such and shall notify in writing the neighborhood organization which requested design overlay district designation for its neighborhood. If the plans are approved, the designee of the Urban Design Committee shall issue a certificate of approval, with or without conditions, and the applicant shall be required to post the certificate of approval on the exterior of the property within public view within two calendar days after the granting of such approval. The certificate of approval shall remain posted for 30 consecutive days. The designee of the Urban Design Committee shall note approval, with or without conditions, or shall note disapproval on the building permit or other applicable permit.

(g) *Reason for action.* Pursuant to this section, the appointed designee of the Urban Design Committee shall clearly state the reason for approval or disapproval of the plans on the building permit or other applicable permit.

(h) *Normal maintenance and repair.* Nothing in this division shall be construed to prevent the normal repair and maintenance of any exterior architectural features located in a design overlay district.

(i) *Unsafe and dangerous conditions.* Nothing in this division shall be construed to prevent the construction, reconstruction, alteration or demolition of any building or feature which the Commissioner of Buildings shall determine is required for public safety because of an unsafe or dangerous condition. Upon the determination of such a condition, the Commissioner of Buildings shall provide notice to the appointed designee of the Urban Design Committee.

(Code 1993, § 32-940.7; Code 2004, § 114-940.7; Code 2015, § 30-940.7; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2010-94-80, § 1, 5-10-2010)

Sec. 30-940.8. Appeal of decision granting or refusing to grant design approval.

(a) *Appeal to Urban Design Committee.* Any person aggrieved or any officer, department, board, commission or agency of the City affected may appeal the decision of the designee of the Urban Design Committee made pursuant to this division to the Urban Design Committee by filing a petition with the Secretary of the Urban Design Committee. The petition shall be filed within 30 days after the final written decision of the designee approving or disapproving design approval and shall set forth the alleged errors or illegality of the designee's action and the grounds thereof. The Secretary of the Urban Design Committee shall send copies of the petition to each member of the Urban Design Committee and to the property owner and shall notify in writing the neighborhood organization which requested design overlay district designation for its neighborhood and the affected property owners of all property or portions of property located within 150 feet of the property. Such notification shall include the scope of work and the date, time, and place of the meeting at which the appeal shall be considered by the Urban Design Committee and shall be by regular mail and mailed at least seven days prior to the meeting. The filing of the petition shall stay all proceedings from the decision appealed, except that a decision denying a request for demolition in a design overlay district shall not be stayed.

(b) *Review by Urban Design Committee.* Upon receipt of the petition filed pursuant to this section, the Urban Design Committee shall review the petition and shall approve or disapprove the plans and, if approved, shall issue a certificate of approval, with or without conditions, or with such modifications of the plans as the Committee deems

necessary to execute the purpose set forth in the adopted design guidelines of the particular design overlay district and to require compliance with this division. Approval of any plans must receive no fewer than five affirmative votes of the Urban Design Committee. Failure to receive five affirmative votes shall be equivalent to a denial. The Director of the Department of Planning and Development Review may establish additional procedures and guidelines for appeals.

(c) *Appeal to City Council.* Any person aggrieved or any officer, department, board, commission or agency of the City affected may appeal the decision of the Urban Design Committee made pursuant to this division to the City Council by filing a petition with the City Clerk. The City Clerk shall send copies of the petition to each member of the City Council and to the Secretary of the Urban Design Committee. The petition shall set forth the alleged errors or illegality of the Urban Design Committee's action and the grounds thereof and shall be filed within 30 days after the final decision of the Urban Design Committee approving or disapproving design approval. The filing of the petition shall stay all proceedings from the decision appealed, except that a decision denying a request for demolition in a design overlay district shall not be stayed.

(d) *Procedure on appeal to City Council.* Within 30 days of the filing of the petition pursuant to this section, the Urban Design Committee shall file with the City Clerk certified or sworn copies of the record of its action and documents considered by it in making the decision being appealed. With the record and documents, the Urban Design Committee may produce in writing such other facts as may be pertinent and material to show grounds of the decision appealed, verified by affidavit. The City Clerk shall send copies of all information filed by the Urban Design Committee within a reasonable time to each member of the City Council. The Director of the Department of Planning and Development Review may establish additional procedures and guidelines for appeals.

(e) *Review by City Council.* The City Council shall review the petition, record, documents, and other materials produced by the Urban Design Committee pursuant to this section, and the City Council may reverse or modify the decision appealed, in whole or in part, when it is satisfied that the decision of the Urban Design Committee is in error under this division, or the City Council may affirm the decision of the Urban Design Committee.

(f) *Appeal to circuit court.* Any person aggrieved or any officer, department, board, commission or agency of the City affected may appeal any decision of the City Council to affirm, modify or reverse a decision of the Urban Design Committee made pursuant to this division to the circuit court for review by filing a petition at law.

(Code 1993, § 32-940.8; Code 2004, § 114-940.8; Code 2015, § 30-940.8; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2010-94-80, § 1, 5-10-2010)

Sec. 30-940.9. Additional rights of owners to demolish certain buildings or structures regulated by design guidelines.

(a) *Procedures.* The following are procedures entitling owners to demolish properties:

(1) If the design guidelines for a particular design overlay district prohibit the demolition of buildings or structures deemed to be contributing to the general neighborhood character, the owner of the building or structure shall, as a matter of right and in addition to the right of appeal set forth in Section 30-940.8, be entitled to demolish the building or structure, provided that:

a. The owner has submitted a demolition permit to the City for such and, if denied by the designee of the Urban Design Committee, has appealed the decision to the Urban Design Committee and, if denied, has appealed the decision to the City Council;

b. The owner has, for the period of time set forth in subsection (b) of this section and at a price reasonably related to its fair market value, made a bona fide offer to sell the building or structure and the land pertaining thereto to the City or to any person, firm, corporation, government or agency or political subdivision or agency which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto; and

c. No bona fide contract, binding upon all parties thereto, has been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in subsection (b) of this section.

(2) Any appeal taken to the court from the decision of the City Council, whether instituted by the owner or by any other proper party, notwithstanding the sections of this division relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to in this section. No offer to sell shall be made more than 12 months after a final decision by the City Council, but thereafter the owner may renew the request to the City to approve the demolition of the building or structure.

(b) *Time schedule.* The time schedule for offers to sell made pursuant to this section shall be as follows:

(1) Three months when the offering price is less than $25,000.00;

(2) Four months when the offering price is $25,000.00 or more but less than $40,000.00;

(3) Five months when the offering price is $40,000.00 or more but less than $55,000.00;

(4) Six months when the offering price is $55,000.00 or more but less than $75,000.00;

(5) Seven months when the offering price is $75,000.00 or more but less than $90,000.00; and

(6) Twelve months when the offering price is $90,000.00 or more.

(c) *Notice required.* Before making a bona fide offer to sell as provided for in this section, the property owner shall first file a statement with the Secretary of the Urban Design Committee, and the owner shall publish the notice twice, not less than seven days apart, in a daily newspaper of general circulation in the City. The statement shall identify the property and shall state the offering price, the date that the offer for sale is to begin, and the name of the real estate agent, if any. No time period set forth in subsection (b) of this section shall begin to run until the statement has been both filed and published.

(Code 1993, § 32-940.9; Code 2004, § 114-940.9; Code 2015, § 30-940.9)

DIVISION 6. PLAN OF DEVELOPMENT OVERLAY DISTRICTS

Sec. 30-950. Applicability.

This division applies generally to plan of development overlay districts and is for the purpose of setting forth the means of establishing such districts and determining the requirements applicable within each.

(Code 1993, § 32-950; Code 2004, § 114-950; Code 2015, § 30-950)

Sec. 30-950.1. Intent of districts.

(a) Pursuant to the general purposes of this chapter, the intent of plan of development overlay districts is to provide a means whereby the City Council may establish overlay districts to determine compliance with the technical requirements of this chapter as well as compliance with site planning criteria in this chapter such as the relationship among the various elements of the plan (preservation of landscape, arrangement of buildings and spaces, functions of yards and spaces, parking and circulation), the relationship to the arrangement of abutting sites and to minimize potential adverse influences on and ensure compatibility with nearby uses.

(b) The districts are intended to recognize that business uses located in areas adjacent to or within residential areas and generating traffic which must pass through adjacent residential areas typically have a greater impact on these residential areas than business uses in other locations and that plan of development review provides an opportunity to ensure a more harmonious relationship between these different uses.

(Code 1993, § 32-950.1; Code 2004, § 114-950.1; Code 2015, § 30-950.1)

Sec. 30-950.2. Application of districts and regulations.

(a) *Relation to other districts.* Plan of development overlay districts shall be in addition to and shall be applied so as to overlay and be superimposed on such other zoning districts as permitted by subsection (b) of this section and shown on the official zoning map. Any property lying within a plan of development overlay district shall also lie within one or more of such other zoning districts, which shall be known as underlying districts.

(b) *Permitted underlying districts.* Plan of development overlay districts shall be applied so as to overlay a B-1, B-2, B-3, B-4, RO-3 or TOD-1 district.

(Code 1993, § 32-950.2; Code 2004, § 114-950.2; Code 2015, § 30-950.2; Ord. No. 2019-171, § 1, 7-22-2019)

Sec. 30-950.3. Establishment of plan of development overlay districts and requirements pertaining thereto.

(a) *Establishment of districts.* Every plan of development overlay district shall be established by amendment to the official zoning map in the same manner as other zoning map amendments and as provided for by this chapter. Every area designated as a plan of development overlay district by such zoning map amendment shall constitute a separate district which shall be numbered serially in the order of adoption and shown on the official zoning map by a special symbol, pattern or shading depicting the boundaries of the district together with the numerical designation of the district. A description of the boundaries or a map depicting the boundaries of each plan of development overlay district and the date of adoption of the district or amendment thereto shall be set forth in this article.

(b) *Application of district regulations.* Within each plan of development overlay district, a plan of development as set forth in Article X of this chapter shall be required for:

(1) Construction of any new building or addition to an existing building when such new building or addition occupies more than 1,000 square feet of lot coverage;

(2) Construction of any parking area or parking lot or any addition to or material alteration of the arrangement of any parking area or loading area or vehicle circulation or maneuvering area, including any means of access thereto.

(c) *Application of district regulations.* In all other respects the regulations normally applicable within the underlying district shall apply to property within the boundaries of the plan of development overlay district. Application of a plan of development overlay district shall not eliminate any specific requirement within an underlying zoning district pertaining to plan of development requirements.

(Code 1993, § 32-950.3; Code 2004, § 114-950.3; Code 2015, § 30-950.3; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2019-171, § 1, 7-22-2019)

Sec. 30-950.4. Establishment of specific districts.

These divisions shall become effective in areas specified and on dates indicated as follows:

(1) *Westover Hills Boulevard/Forest Hill Avenue Plan of Development Overlay District POD-1.* On January 12, 1998, this division shall become effective in the Westover Hills/Forest Hill Avenue POD-1 district. The boundaries of such district are as follows: beginning at the intersection of the centerline of Forest Hill Avenue and Prince Arthur Road; thence extending 190 feet, more or less, in a northerly direction along the centerline of Prince Arthur Road to a point; thence extending 1,040 feet, more or less, in an easterly direction along the centerline of a 16-foot-wide east/west alley located between Forest Hill Avenue and Devonshire Road to the centerline of Westover Hills Boulevard; thence extending 50 feet, more or less, in a southerly direction along the centerline of Westover Hills Boulevard to a point; thence extending 743 feet, more or less, along the centerline of a 16-foot-wide east/west alley between Forest Hill Avenue and Devonshire Road to the centerline of West 47th Street; thence extending 200 feet, more or less, in a southerly direction along the centerline of West 47th Street to the centerline of Forest Hill Avenue; thence extending 137 feet, more or less, in an easterly direction along the centerline of Forest Hill Avenue to a point; thence extending 150 feet, more or less, in a southerly direction along a line parallel to the east line of West 47th Street to a point; thence extending 137 feet, more or less, in a westerly direction along a line parallel to the south line of Forest Hill Avenue to the centerline of West 47th Street; thence extending 107 feet, more or less, in a southerly direction along the centerline of West 47th Street to a point; thence extending 561 feet, more or less, in a westerly direction along the centerline of a 14-foot-wide east/west alley between Forest Hill Avenue and Dunstan Avenue to the centerline of a 14-foot-wide north/south alley between Westover Hills Boulevard and West 48th Street; thence extending 400 feet, more or less, in a southerly direction along the centerline of such alley to the centerline of Dunstan Avenue; thence extending 250 feet, more or less, in a westerly direction along the centerline of Dunstan Avenue to the centerline of West 49th Street; thence extending 128.89 feet, more or less, in a southerly direction along the centerline of West 49th Street to the centerline of Clarence Street; thence extending 312.8 feet, more or less, in a westerly direction along the centerline of Clarence Street to a point 277.8 feet west of the west line of West 49th Street; thence extending 720 feet in a

northerly direction along a line 277.8 feet west of and parallel to the west line of West 49th Street to a point; thence extending 868 feet, more or less, in a westerly direction along a line 150 feet south of and parallel to the south line of Forest Hill Avenue to the centerline of Jahnke Road; thence extending 190 feet, more or less, in a northerly direction along the centerline of Jahnke Road to the centerline of Forest Hill Avenue; thence extending 18.09 feet, more or less, in an easterly direction along the centerline of Forest Hill Avenue to the point of beginning.

(2) *Arts District Station/Monroe Ward Plan of Development Overlay District POD-2.* On July 22, 2019, this division shall become effective in the Arts District Station/Monroe Ward Plan of Development Overlay District. The district is bounded by the centerlines of North Belvidere Street and South Belvidere Street on the west, East Broad Street and West Broad Street on the north, the Downtown Expressway on the south, and North 9th Street and South 9th Street on the east. In addition to the criteria by which all plans of development are evaluated, plans of development in the Arts District Station/Monroe Ward Plan of Development Overlay District shall be evaluated to determine if building design is in line with the following six form elements of the Pulse Corridor Plan, as incorporated into the Master Plan for the City of Richmond by Ordinance No. 2017-127, adopted July 24, 2017:

a. *Hold the corner.* Buildings and spaces at intersections shall have active ground floors that wrap around the corner.

b. *Entrances face the street.* Main entrances to businesses and residences shall face the street to facilitate pedestrian activity.

c. *Appropriate setbacks/stepbacks.* Commercial uses shall be closer to the street and residential uses shall be set back to facilitate privacy and to create a semi-public space. Stepbacks at upper stories shall honor existing form without overwhelming it.

d. *Transparency.* Façade fenestration shall be visible from the street. This is especially important on the ground floor, where fenestration should occupy a higher percentage of the building face.

e. *Façade articulation.* Long, monolithic façades shall be broken up and made more human-scale by varying the streetwall plane, height, colors, and materials.

f. *Screened parking/services.* Attractive landscaping shall extend to the sidewalk to help maintain a streetwall and mitigate the disruption caused by surface parking lots and utilitarian services.

(Code 1993, §§ 32-950.4, 32-950.4(1); Code 2004, § 114-950.4; Code 2015, § 30-950.4; Ord. No. 2019-171, § 1, 7-22-2019)

Sec. 30-950.5. Pre-application meetings.

Within the boundaries of the Arts District Station/Monroe Ward Plan of Development Overlay District POD-2, applicants must schedule a meeting with the Department of Planning and Development Review before an application is submitted to discuss how a project will align with the goals of the Pulse Corridor Plan and with the six form elements set forth in Section 30-950.4(2).

(Code 2015, § 30-950.5; Ord. No. 2019-171, § 2, 7-22-2019)

DIVISION 7. PARKING EXEMPT OVERLAY DISTRICTS

Sec. 30-960. Generally.

The provisions of this division shall apply to designated parking exempt overlay districts and are for the purpose of setting forth the means of establishing and administering such districts.

(Code 2004, § 114-960; Code 2015, § 30-960; Ord. No. 2003-185-132, § 1, 5-27-2003)

Sec. 30-960.1. Intent of district.

Pursuant to the general purposes of this chapter, the intent of parking exempt overlay districts is to provide relief from the off-street parking requirements for certain uses so as to facilitate the development and redevelopment of economically depressed, older, urban commercial districts characterized by a substantial number of vacant and deteriorated structures. With the exception of certain high intensity uses, off-street parking is generally not needed for most uses in these areas because of high vacancy rates, availability of on-street parking, considerable walk-in

trade due to proximity to residential areas and available public transportation. As these economically depressed, older, urban commercial districts undergo revitalization, consideration should be given to re-establishing appropriate parking requirements.

(Code 2004, § 114-960.1; Ord. No. 2003-185-132, § 1, 5-27-2003)

Sec. 30-960.2. Application of districts and regulations.

(a) *Relation to other districts.* Parking exempt overlay districts shall be in addition to, and shall be applied so as to overlay and be superimposed on such other zoning districts as permitted by the provisions of subsection (b) of this section and shown on the official zoning map. Any property lying within a parking exempt overlay district shall also lie within one or more of such other zoning districts, which shall be known as underlying districts.

(b) *Permitted underlying districts.* Parking exempt overlay districts shall be applied so as to overlay UB, UB-2, B-1, B-2 or B-3 districts. Parking exempt overlay districts may also be applied so as to overlay those portions of RO-1, RO-2 or RO-3 districts which lie contiguous to a UB, UB-2, B-1, B-2 or B-3 district and constitute a part of the same parking exempt overlay district.

(c) *Minimum district size.* Each parking exempt overlay district shall comprise a contiguous area of not less than 25,000 square feet.

(d) *Establishment of districts.* Every parking exempt overlay district shall be established by amendment to the official zoning map in the same manner as other zoning map amendments and as provided for by this chapter. Every area designated as a parking exempt overlay district by such zoning map amendment shall constitute a separate district which shall be numbered serially in the order of adoption and shown on the official zoning map by a special symbol, pattern or shading depicting the boundaries of the district together with the numerical designation of the district. The provisions of this division shall be applicable within such designated districts, which will be established in this division by ordinance and designated as parking exempt overlay districts.

(Code 2004, § 114-960.2; Code 2015, § 30-960.2; Ord. No. 2003-185-132, § 1, 5-27-2003; Ord. No. 2008-2-55, § 2, 3-24-2008)

Sec. 30-960.3. Number of spaces required.

(a) There shall be no parking requirement for any uses located within buildings existing on the effective date of the ordinance from which this division is derived except that the minimum number off-street parking spaces required for the following uses shall be as follows:

(1) Theaters; amusement centers, lodges and clubs; and similar uses: one space per 150 square feet of floor area;

(2) Nightclubs; one space per 100 square feet of floor area;

(3) Restaurants: one space per 300 square feet of floor area;

(4) Food stores: one space per 300 square feet of floor area; and

(5) Dwelling units: none for three units: otherwise, one per four dwelling units.

(b) For all newly constructed buildings and additions to existing buildings, the minimum number of off-street parking spaces required shall be as specified in Sections 30-710.1 through 30-710.7, provided that off-street parking shall not be required for a single addition to an existing building which does not exceed 200 square feet in floor area.

(Code 2004, § 114-960.3; Code 2015, § 30-960.3; Ord. No. 2003-185-132, § 1, 5-27-2003; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2012-234-2013-2, § 1, 1-14-2013)

Sec. 30-960.4. Changes in the number of parking spaces required.

When any change is made to the use of a building, existing on the effective date of the ordinance from which this division is derived, so that the number of parking spaces required by Section 30-960.3 is increased, the number of spaces required for the subject increase shall include in the calculation of required parking any nonconforming rights to off-street parking which existed on the effective date of inclusion of the subject property in a parking exempt overlay district.

(Code 2004, § 114-960.4; Code 2015, § 30-960.4; Ord. No. 2003-185-132, § 1, 5-27-2003)

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. ADMINISTRATIVE OFFICER*

***Cross reference—**Officers and employees, § 2-57 et seq.

Sec. 30-1000. Authority and appointment of Zoning Administrator.

It shall be the duty of the Zoning Administrator to administer and enforce this chapter. The Zoning Administrator shall be an employee of the Department of Planning and Development Review appointed by the Director of that Department.

(Code 1993, § 32-1000; Code 2004, § 114-1000; Code 2015, § 30-1000; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1000.1. Enforcement duties.

The Commissioner of Buildings shall cause to be submitted to the Zoning Administrator for review all applications for permits for the construction, enlargement, structural alteration, conversion or relocation of any building or structure; permits to erect signs; certificates of use and occupancy; and certificates of zoning compliance. The Zoning Administrator shall approve or disapprove such applications based on compliance or noncompliance with this chapter. The Zoning Administrator shall use all best efforts to prevent violations and to detect and secure the correction of violations. If it shall be found that any of the sections of this chapter are being violated, the Zoning Administrator shall see that written notice is given to the person responsible for such violation, indicating the nature of the violation and the action necessary to correct it. The Zoning Administrator shall order or cause to be ordered the discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures or of illegal additions or alterations; and discontinuance of illegal work being done. The Zoning Administrator shall also take or cause to be taken any other action authorized by this chapter or other laws of the City or the Commonwealth to ensure compliance with and to prevent violation of this chapter. The Zoning Administrator shall respond withing 90 days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period.

(Code 1993, § 32-1000.1; Code 2004, § 114-1000.1; Code 2015, § 30-1000.1)

Sec. 30-1000.2. Records.

The Zoning Administrator shall maintain records of all official actions taken by the zoning administration office with respect to the administration and enforcement of this chapter. Such records shall include, among such other information as the Zoning Administrator deems necessary, information relating to approved building permits, certificates of use and occupancy, certificates of zoning compliance, violations and actions taken with regard thereto, including remedial action taken and final disposition of cases.

(Code 1993, § 32-1000.2; Code 2004, § 114-1000.2; Code 2015, § 30-1000.2)

DIVISION 2. BUILDING PERMITS

Sec. 30-1010. Determination of compliance with chapter prior to issuance.

The Zoning Administrator shall be responsible for determining whether those applications for permits, set forth in Section 30-1000.1, are in accord with the requirements of this chapter, and no such permit shall be issued by the Commissioner of Buildings until the Zoning Administrator has certified that the proposed construction and use of the premises conform with all applicable provisions of this chapter. Approval of a building permit or land-disturbing permit shall not be granted by the Commissioner of Buildings until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the subject property have been paid, provided that this requirement may be waived subject to compliance with the following criteria:

(1) A licensed medical doctor must certify in writing to the Zoning Administrator that an owner of a single-family dwelling has a disability that requires approval of a building permit for that dwelling to accommodate the disability;

(2) A licensed medical doctor must certify in writing to the Zoning Administrator that the specific building

modification for which the building permit is sought is required to accommodate the disability; and

(3) The Director of Finance must certify in writing to the Zoning Administrator that a payment schedule has been established for repayment of any delinquent real estate taxes applicable to the subject property.

Further, the requirement that satisfactory evidence be presented to the Zoning Administrator that any delinquent real estate taxes applicable to the subject property have been paid shall not apply to property that is not owned by Richmond public schools but is used primarily as a public school facility.

(Code 1993, § 32-1010; Code 2004, § 114-1010; Code 2015, § 30-1010; Ord. No. 2005-12-33, § 1, 3-29-2005)

Sec. 30-1010.1. Plans to accompany applications.

All applications for permits to erect, construct, enlarge, structurally alter, convert or relocate any building or structure shall be accompanied by building plans, specifications and site plans as required by the Virginia Uniform Statewide Building Code, plus such additional information deemed necessary by the Zoning Administrator to enforce this chapter.

(Code 1993, § 32-1010.1; Code 2004, § 114-1010.1; Code 2015, § 30-1010.1)

Sec. 30-1010.2. Conformance with approved plans.

It shall be unlawful for any person to erect, construct, enlarge, extend, structurally alter or use any building, structure or premises except in conformance with plans approved by the Zoning Administrator as required by this article.

(Code 1993, § 32-1010.2; Code 2004, § 114-1010.2; Code 2015, § 30-1010.2)

Sec. 30-1010.3. Pending applications.

This chapter and any amendment to this chapter shall apply to all building permit applications pending and not yet finally approved as of the effective date of the ordinance from which this chapter is derived or amendment to this chapter.

(Code 1993, § 32-1010.3; Code 2004, § 114-1010.3)

DIVISION 2.1. CERTIFICATE OF USE AND OCCUPANCY

Sec. 30-1015. Responsibility of Zoning Administrator.

The Zoning Administrator shall be responsible for determining whether applications for certificates of use and occupancy, as defined in the Virginia Uniform Statewide Building Code, are in accord with the requirements of this chapter.

(Code 1993, § 32-1015; Code 2004, § 114-1015; Code 2015, § 30-1015)

Sec. 30-1015.1. Plans to accompany applications.

All applications for certificates of use and occupancy shall be accompanied by building plans, specifications and site plans, if required by the Virginia Uniform Statewide Building Code, and by such additional information deemed necessary by the Zoning Administrator to enforce this chapter.

(Code 1993, § 32-1015.1; Code 2004, § 114-1015.1; Code 2015, § 30-1015.1)

Sec. 30-1015.2. Issuance.

No certificate of use and occupancy or temporary certificate of use and occupancy shall be issued by the Commissioner of Buildings unless the Zoning Administrator is satisfied, after inspection of the building, structure or premises involved, that all applicable sections of this chapter are met. No certificate of use and occupancy shall be issued for any development within a Chesapeake Bay Preservation Area until all requirements of Chapter 14, Article IV and the approved Chesapeake Bay Site Plan have been met.

(Code 1993, § 32-1015.2; Code 2004, § 114-1015.2; Code 2015, § 30-1015.2; Ord. No. 2004-333-323, § 1, 12-13-2004)

Sec. 30-1015.3. Temporary certificate.

The Zoning Administrator shall not approve any temporary certificate of use and occupancy where the

applicable sections of this chapter are not met, except when lack of compliance is of a temporary nature and involves signage or site-related improvements, such as landscaping, vegetative screening and paving. In such instances, the Zoning Administrator shall, before approving such temporary certificate of use and occupancy, be satisfied that the premises involved is physically suitable for use and occupancy in terms of access, parking and other site-related improvements. Temporary certificates of use and occupancy approved by the Zoning Administrator shall state the nature of the incomplete work and the time period within which the work must be completed, which in no case shall exceed 120 calendar days. Before approving any such temporary certificate of use and occupancy, the Zoning Administrator shall require that the owner of the property or the owner's agent submit a letter acknowledging the nature of incomplete work and the time period within which the work must be completed, which in no case shall exceed the time period as specified in this section. In the case of a temporary certificate of use and occupancy involving a Chesapeake Bay Preservation Area, no such certificate shall be issued without approval of the Chesapeake Bay Administrator.

(Code 1993, § 32-1015.3; Code 2004, § 114-1015.3; Code 2015, § 30-1015.3; Ord. No. 2004-333-323, § 1, 12-13-2004)

DIVISION 3. CERTIFICATE OF ZONING COMPLIANCE

Sec. 30-1020. Required.

It shall be unlawful for any person to use or to permit the use of any building, structure or premises or portion thereof, other than an existing single-family dwelling, unless a certificate of zoning compliance for such building, structure or premises or portion thereof shall have been approved by the Zoning Administrator as required by this article. It shall also be unlawful for any person to construct or erect any building or structure which is exempt from application for a building permit under the provisions of the Virginia Uniform Statewide Building Code and which is three feet or greater in height, unless a certificate of zoning compliance for such building or structure has been approved by the Zoning Administrator. However, a certificate of zoning compliance shall not be required for fences, walls, poles, posts and other customary yard ornaments and accessories which are exempt from application for a building permit and which are permitted by the provisions of this chapter. The certificate of zoning compliance shall certify that the building, structure or premises and the use thereof comply with the applicable sections of this chapter. No certificate of zoning compliance shall be issued for any development within a Chesapeake Bay Preservation Area until all requirements of Chapter 14, Article IV and the approved Chesapeake Bay Site Plan have been met.

(Code 1993, § 32-1020; Code 2004, § 114-1020; Code 2015, § 30-1020; Ord. No. 2004-333-323, § 1, 12-13-2004; Ord. No. 2004-349-327, § 1, 12-13-2004)

Sec. 30-1020.1. Plans to accompany application.

All applications for certificates of zoning compliance shall be accompanied by such plans, specifications, site plans, and such additional information as required by the Zoning Administrator in order to determine compliance with this chapter.

(Code 1993, § 32-1020.1; Code 2004, § 114-1020.1; Code 2015, § 30-1020.1)

Sec. 30-1020.2. Transferability.

A certificate of zoning compliance shall not be transferable to any person. Any new tenant or new owner of such building, structure or premises shall make application for a new certificate of zoning compliance. New occupants of single-family dwellings or single dwelling or lodging units shall be exempt from the requirements of this division.

(Code 1993, § 32-1020.2; Code 2004, § 114-1020.2; Code 2015, § 30-1020.2)

Sec. 30-1020.3. Issuance.

No certificate of zoning compliance shall be issued by the Zoning Administrator unless the Zoning Administrator is satisfied, after inspection of the building, structure or premises involved, that all applicable sections of this chapter are met. Within two working days after the filing of an application for a certificate of zoning compliance or a letter of zoning confirmation, the Zoning Administrator shall cause such application to be published on the City's website. Within two working days after the Zoning Administrator issues a certificate of zoning compliance or a letter of zoning confirmation, the Zoning Administrator shall cause such certificate of zoning

compliance or letter of zoning confirmation to be published on the City's website.

(Code 1993, § 32-1020.3; Code 2004, § 114-1020.3; Code 2015, § 30-1020.3; Ord. No. 2018-276, § 1, 12-17-2018)

Sec. 30-1020.4. Fee for filing an application for certificate of zoning compliance.

(a) A fee shall accompany each certificate of zoning compliance application for the respective use, which fee shall be paid into the City treasury. The fees shall be as follows:

(1)	Home occupation	$75.00
(2)	Single- or two-family detached or attached dwelling	$75.00
(3)	Private elementary or secondary school	$75.00
(4)	Church or other place of worship	$75.00
(5)	Day nursery	$75.00
(6)	Adult day care facility	$75.00
(7)	Multifamily dwelling (three to ten units)	$150.00
(8)	Multifamily dwelling (11 to 50)	$300.00
(9)	Multifamily dwelling (more than 50 units)	$500.00
(10)	Commercial or industrial use equal to or less than 5,000 square feet	$150.00
(11)	Commercial or industrial use greater than 5,000 square feet	$300.00
(12)	Adult care residence or lodginghouse	$300.00
(13)	Portable storage unit	$10.00
(14)	Wireless communications facility	$500.00
(15)	Uses not specified	$200.00
(16)	Short-term rental (two years)	$300.00

(b) Approval of a certificate of zoning compliance shall not be granted until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 1993, § 32-1020.4; Code 2004, § 114-1020.4; Code 2015, § 30-1020.4; Ord. No. 2010-237-2011-16, § 1, 1-24-2011; Ord. No. 2015-80-74, § 2, 5-11-2015; Ord. No. 2018-089, § 1, 5-14-2018; Ord. No. 2020-079, § 2, 5-11-2020)

Sec. 30-1020.5. Fee for Zoning Confirmation Letter.

A fee shall accompany each request for a Letter of Zoning Compliance for the respective use, which fee shall be paid into the City treasury. The fees shall be as follows:

(1)	Home occupation	$75.00
(2)	Single- or two-family detached or attached dwelling	$75.00
(3)	Private elementary or secondary school	$75.00
(4)	Church or other place of worship	$75.00
(5)	Day nursery	$75.00
(6)	Adult day care facility	$75.00
(7)	Multifamily dwelling (three to ten units)	$150.00

(8)	Multifamily dwelling (11 to 50 units)	$300.00
(9)	Multifamily dwelling (more than 50 units)	$500.00
(10)	Commercial or industrial use equal to or less than 5,000 square feet	$150.00
(11)	Commercial or industrial use greater than 5,000 square feet	$300.00
(12)	Adult care residence or lodginghouse	$300.00
(13)	Uses not specified	$150.00
(14)	Building or structure for which no building permit is required	$25.00
(15)	Additional fee for filing an expedited application for a letter of zoning compliance for any use, which shall be processed within five business days	$600.00

(Code 1993, § 32-1020.5; Code 2004, § 114-1020.5; Code 2015, § 30-1020.5; Ord. No. 2010-237-2011-16, § 1, 1-24-2011; Ord. No. 2018-089, § 1, 5-14-2018)

DIVISION 4. PLAN OF DEVELOPMENT*

***Editor's note—**Ord. No. 2004-180-167, §§ 3 and 5, adopted June 28, 2004, repealed the Code 2004, §§ 114-1030.1—114-1030.8, and enacted substitute provisions. The former provisions pertained to similar subject matter and derived from Code 1993, §§ 32-1030.1—32-1030.8.

Sec. 30-1030. Intent.

Pursuant to the general purposes of this chapter, the intent of the plan of development review and approval process is to ensure compliance with the technical requirements of this chapter, as well as the site planning criteria set forth in this division and elsewhere in this chapter, and to enhance the general character and overall quality of development by encouraging efficient and functional relationships among the various elements of site plans, encouraging safe pedestrian movement by reducing vehicular conflicts with pedestrians, promoting compatible arrangement of abutting sites, and minimizing potential adverse influences on and ensuring compatibility with nearby uses.

(Code 2004, § 114-1030; Code 2015, § 30-1030; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004)

Sec. 30-1030.1. When required.

A plan of development shall be required for such uses in such districts as specified in Article IV and Article IX of this chapter pertaining to district regulations, and no certificate of use and occupancy for a newly established use requiring a plan of development and no building permit, land-disturbing permit or driveway permit involving the construction, enlargement, conversion, exterior modification or relocation of a building, structure or site occupied or intended to be occupied by such use shall be approved by the Zoning Administrator, granted by the Commissioner of Buildings or issued by any other City official unless required plans for such use, building or site shall have been reviewed and approved by the Director of Community Development, in accordance with the requirements set forth in this article. A plan of development shall not be required for wireless communications facilities meeting the criteria set forth in Section 30-692.4(b)(2). In the case of changes or modifications to the site of a use existing at the effective date of this provision, the following shall apply:

(1) For a use that requires a plan of development under the provisions of this chapter, but for which no plan of development has previously been approved, a plan of development shall be required for:

   a. Construction of any new building or of any addition to an existing building when such new building or addition occupies a cumulative total of more than 1,000 square feet of lot coverage, provided that a plan of development shall be required for any industrialized building located in an R district;

   b. Any increase in the number of dwelling units on the site;

   c. Enlargement of the site occupied by the use when such enlargement exceeds a cumulative total 1,000 square feet of lot area; or

   d. Addition of a cumulative total of more than 1,000 square feet of outdoor area devoted to active

recreation or play area on the site; or

e. Construction of a new parking area, expansion of an existing parking area by five or more spaces, or any material alteration of the arrangement of any parking area, loading area or related vehicle circulation or maneuvering area.

(2) For a use that requires a plan of development under the provisions of this chapter, and for which a plan of development has previously been approved, an amended plan of development shall be required for:

a. Construction of any new building or of any enlargement of a building or site occupied by the use;

b. Construction of a new parking area, expansion of an existing parking area by five or more spaces, or any material alteration of the arrangement of any parking area, loading area or related vehicle circulation or maneuvering area; or

c. Any material change in the exterior of a building, landscaping, screening, signage, lighting, or any other feature specifically addressed by the previously approved plan of development.

(Code 2004, § 114-1030.1; Code 2015, § 30-1030.1; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2010-209-216, § 3, 12-13-2010; Ord. No. 2015-80-74, § 1, 5-11-2015; Ord. No. 2018-157, § 1, 6-25-2018)

Sec. 30-1030.2. Filing of application and submission of plans.

Application and plans shall be submitted to the Director of Planning and Development Review in accordance with written policy established by the Director. Applicants are encouraged to participate in a pre-application conference with appropriate Department of Planning and Development Review staff prior to preparation of plans and before filing an application for approval of a plan of development.

(Code 2004, § 114-1030.2; Code 2015, § 30-1030.2; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1030.3. Review of plans and action by Director of Planning and Development Review.

After complete submission of the required application and plans as set forth in Section 30-1030.2, and after payment of the required plan of development review fee, such plans shall be reviewed by Department of Planning and Development Review staff and such other City agencies as deemed appropriate by the Director of Planning and Development Review. Such reviews shall be conducted in accordance with procedures set forth in written policy established by the Director. Upon completion of all reviews, the Director shall:

(1) Approve the plan of development by noting such on the plans;

(2) Approve the plan of development with conditions noted on the plans or otherwise provided in writing to the applicant; or

(3) Disapprove the plan of development with appropriate notations on the plans or with explanation provided in writing to the applicant indicating the reasons for disapproval or changes necessary to receive approval.

(Code 2004, § 114-1030.3; Code 2015, § 30-1030.3; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1030.4. Criteria.

The Director of Planning and Development Review shall approve the plan of development if the Director finds the following criteria to be met; otherwise, the Director shall disapprove the plan of development. In reviewing the plan of development and taking action thereon, the Director shall also take into consideration the objectives of the City of Richmond Master Plan as approved and amended by the City Council.

(1) *Preservation of landscape and other natural features.* The natural landscape of the site shall be preserved by retaining mature, healthy trees and natural topography except where removal or thinning of trees and alteration of topography is necessary to accommodate building sites, recreation areas, required parking and driveway areas, necessary drainage facilities and utility systems. Appropriate ground cover, trees and other vegetative materials shall be retained or planted to prevent excessive stormwater runoff,

erosion, siltation and dust, and to enhance the general appearance of the site and its compatibility with nearby sites.

(2) *Arrangement of buildings and spaces.*

a. Buildings shall be located on the site or designed in such a manner that the fronts of buildings do not face into rear yards or service areas of other buildings located either within the site or adjacent to it, except where privacy walls, fences, plant materials or topographic features provide screening therefrom.

b. Where a site abuts an interstate/freeway or principal or minor arterial street as designated in the master plan, railroad or another site developed or intended to be developed for uses potentially incompatible with the proposed use, buildings and open spaces shall be so located, designed and arranged as to provide reasonable separation from such features or uses. Where necessary to achieve such separation, trees or other vegetative materials shall be retained on the site or supplemented by additional planting or the erection of appropriate walls or fences.

(3) *Functions of yards and spaces.* Yards, spaces between buildings and other open spaces required by the provisions of this chapter shall be located with respect to buildings and other site improvements and shall be improved so as to reasonably serve the purposes for which such yards and spaces are intended by this chapter, those purposes being: provision of light and air, separation between buildings, separation between incompatible functions, enhancement of privacy and promotion of public health and safety.

(4) *Parking and circulation.*

a. Driveways and areas for the parking and circulation of vehicles shall be located, designed and improved so as to provide for safe and convenient circulation within the site and safe and convenient access from adjoining streets and shall be in accordance with established traffic engineering standards and the driveway policy of the City. Among factors to be considered shall be the number and location of driveways and access drives to and from adjacent streets and alleys, the distances between such driveways and access drives, the location and width of driveways and access aisles to parking spaces, the arrangement of parking areas and the means of access to buildings for firefighting apparatus and other emergency vehicles. The number of driveways to and from streets shall be the fewest necessary to provide safe and convenient access, and wherever possible, cross-access between abutting sites and shared driveways shall be provided.

b. Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.

c. Vehicle access to adjoining streets should be located and designed in accordance with the following criteria:

1. Where the predominant established character of development is urban in nature, typically with buildings located at or near the street line and with no parking located between buildings and the street, vehicle access to the site from arterial and collector streets should be avoided when adequate local street or alley access is available to the site, unless restricting access to a local street or alley would clearly result in an adverse traffic impact on an adjoining residential district. In the case of a corner lot where local street or alley access is not available, vehicle access from the principal street frontage should be avoided.

2. Where the predominant established character of development is suburban in nature, typically with buildings set back from the street line and with parking located between buildings and the street, vehicle access to the site from local residential streets and from alleys abutting residential districts should be avoided when adequate arterial or collector street access is available to the site.

d. Vehicle parking and circulation areas and sidewalks, walkways and other amenities for pedestrian use shall be located, designed and arranged so as to encourage safe pedestrian movement within and adjacent to the site and to minimize conflicts between vehicles and pedestrians.

(5) *Compatibility with surrounding development and community character.* The arrangement and general character of buildings, spaces and other components of the plan of development shall be designed with consideration for compatibility with the established general character of surrounding development and promotion of the community character goals, policies and strategies pertaining to gateways and image corridors, historic and architectural resources, and urban design as set forth in Chapter 9 of and elsewhere in the City of Richmond Master Plan, as approved and amended by the City Council.

In determining if the above criteria are met, the Director of Planning and Development Review shall consult with appropriate City agencies and may seek such additional technical advice as deemed necessary. The Director shall have the authority to attach conditions to the approval of a plan of development, where such conditions are necessary to ensure conformance with the intent and purpose of the criteria set forth in this article or the regulations set forth elsewhere in this chapter.

(Code 2004, § 114-1030.4; Code 2015, § 30-1030.4; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1030.5. Authority of Zoning Administrator.

The Zoning Administrator shall approve the application for a building permit or for a certificate of use and occupancy after receiving plans from the Director of Planning and Development Review bearing proof of the Director's approval, provided that the Zoning Administrator is satisfied that the proposed construction and use of the premises conform with the applicable provisions of this chapter. The authority and responsibility of the Zoning Administrator shall, with respect to applications having been approved by the Director of Planning and Development Review, be the same as for other applications for building permits and for certificates of use and occupancy submitted for the Zoning Administrator's approval, and nothing in this article shall be construed to abrogate such authority and responsibility.

(Code 2004, § 114-1030.5; Code 2015, § 30-1030.5; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1030.6. Fees for review.

The following fee shall accompany each plan of development:

(1)	Less than or equal to 5,000 square feet	$500.00
(2)	5,001 square feet to 50,000 square feet	$1,000.00
(3)	Over 50,000 square feet	$1,500.00
Plus, per acre		$100.00

(Code 2004, § 114-1030.6; Code 2015, § 30-1030.6; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004; Ord. No. 2007-54-121, §§ 1, 2, 5-29-2007; Ord. No. 2010-237-2011-16, § 1, 1-24-2011)

Sec. 30-1030.7. Payment of delinquent real estate taxes.

Approval of a plan of development or an amendment to a plan of development shall not be granted until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 2004, § 114-1030.7; Code 2015, § 30-1030.7; Ord. No. 2004-180-167, §§ 3, 5, 6-28-2004)

Sec. 30-1030.8. Expiration of approval.

The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the plan of development as approved by the Director of Planning and Development Review. An application for the building permit shall be made within five years following the date on which the plan of development is approved. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Uniform Statewide Building Code, the plan of development approval shall terminate and become null and void.

(Ord. No. 2020-171, § 8(30-1030.8), 9-28-2020)

DIVISION 5. APPEALS, VARIANCES AND EXCEPTIONS

Sec. 30-1040.1. Appeals.

Pursuant to Section 17.20 of the Charter and in accordance with such rules and procedures as may be established by the Board of Zoning Appeals, appeals may be taken to the Board by any person aggrieved or by any officer, department, board, commission or agency of the City affected by any decision of the Administrative Officer designated to enforce and administer this chapter.

(Code 1993, § 32-1040.1; Code 2004, § 114-1040.1; Code 2015, § 30-1040.1)

Sec. 30-1040.1:1. Appeal period.

All appeals shall be taken within 30 days after the decision appealed by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof, provided that appeals shall be taken within ten days after the decision appealed by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof regarding appeals involving temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term recurring violations of applicable requirements of this chapter which shall include the following:

(1) Occupancy of recreational vehicles or parking or storing of recreational vehicles, manufactured homes or semitrailers.

(2) Placement, erection or maintenance of temporary signs, temporary sales and display areas, play equipment, vending machines or similar uses.

(3) Placement of portable storage units in required yards.

(4) Parking of vehicles within front yards or street side yards or on unimproved surfaces.

(5) Operation or maintenance of flea markets.

(Code 2004, § 114-1040.1:1; Code 2015, § 30-1040.1:1; Ord. No. 2010-209-216, § 2, 12-13-2010)

Sec. 30-1040.2. Variances and exceptions granted by the Board of Zoning Appeals.

(a) Under such conditions and circumstances as are set forth in Section 17.20 of the Charter and in accordance with such rules and procedures as may be established by the Board of Zoning Appeals, variances from and exceptions to the provisions of this chapter may be granted by the Board.

(b) A permit implementing the granting of a variance or exception shall not be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 1993, § 32-1040.2; Code 2004, § 114-1040.2; Code 2015, § 30-1040.2; Ord. No. 2004-49-60, § 1, 3-22-2004)

Sec. 30-1040.3. Additional exceptions granted by the Board of Zoning Appeals.

Pursuant to Code of Virginia, § 15.2-2309, the following exceptions to the district regulations or other restrictions set out in this chapter may be granted by the Board of Zoning Appeals, provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas. In granting an exception, the Board shall be satisfied that it is consistent with the intent statement and the conditions as set forth in the particular exception, and the Board may attach such specific conditions and limitations as it deems necessary to satisfy the general conditions of this paragraph and the intent of the exception.

(1) *Construction of or additions to dwellings or accessory structures.* Construction of or additions to single-family detached, single-family attached, two-family or multifamily dwellings or accessory structures on lots occupied by such dwellings when such dwellings, additions or accessory structures cannot meet applicable yard and/or lot coverage requirements. Such dwellings, additions or accessory structures shall be permitted, provided the Board shall be satisfied that:

a. The intended purpose and use of the dwelling, addition or accessory structure is consistent with the use regulations applicable in the district in which the property is situated;

b. The departure from the applicable yard and/or lot coverage requirements is the minimum necessary to accommodate the intended purpose of the dwelling, addition or accessory structure, and that the dwelling, addition or accessory structure or a similar dwelling, addition or accessory structure serving the same purpose and function cannot reasonably be located elsewhere on the lot in compliance with applicable requirements; and

c. Any addition to an existing dwelling or construction of or addition to an accessory structure will be in keeping with the architectural character of the existing dwelling on the property, and any newly constructed dwelling or accessory structure will be in keeping with the development pattern of the neighborhood.

Intent statement. Many existing lots in the City are characterized by such small size, irregular configuration or other condition that current yard and/or lot coverage requirements severely inhibit their development for permitted dwelling use consistent with modern day dwelling needs. Also, a large number of dwellings in the City were constructed many years ago and do not meet contemporary needs of owners or occupants with regard to size, number, function or amenities of rooms and other living spaces. Many dwellings were constructed on relatively small lots and/or were constructed in a manner that current yard or lot coverage requirements do not enable additions to or construction of accessory structures for dwellings that are desired by owners or occupants to modernize or improve the functionality and livability of their properties. It is often desirable to permit construction of new dwellings, additions or accessory structures to encourage improvement of property, increase opportunities for home ownership, retain residents in the City and promote neighborhood improvement.

(2) *Lot division to create buildable lots.* Division of a lot which is undeveloped or a lot which is developed with single-family detached, single-family attached, two-family or multifamily dwellings, with or without accessory structures, when such lot or such lot and dwellings are existing on the effective date of the ordinance from which this subsection is derived, into two or more lots for purposes of single-family detached, single-family attached, two-family or multifamily dwelling use, when the lots created by such division cannot meet applicable lot area, lot width, usable open space, lot coverage or side yard requirements. The division of such lot shall be permitted, provided that:

a. Such lot shall have previously consisted of legal lots of record that were subsequently combined by deed or other action, and the number of lots to be created shall not exceed the number of previously existing lots of record. The configuration of the lots to be created by the division need not be the same configuration as the previously existing lots of record.

b. The use of all lots created by the division shall be consistent with the use regulations applicable in the district in which the property is situated.

c. All new lots shall comply with Section 30-610.1 regarding public street frontage and access to lots.

d. The off-street parking requirements of this chapter shall be met.

e. Except where buildings are attached, each lot created by the division shall be provided with a side yard or and street side yard, where applicable, adjacent to each side lot line of not less than ten percent of the width of the lot, but in no case less than three feet, except in the case of an existing dwelling having an existing side yard of less width.

f. The division shall comply with the applicable requirements of Chapter 25 regarding the subdivision of land.

g. The Board shall be satisfied that the areas and widths of the lots created by the division are consistent with the predominant lot areas and lot widths in the immediate vicinity of the property, and that dwellings to be constructed on the lots will be compatible with dwellings existing or to be constructed in the immediate vicinity of the property.

Intent statement. In many older areas of the City, properties were originally subdivided into relatively small lots for purposes of single-family detached, single-family attached, two-family or multifamily development. In some cases, such lots were subsequently combined for purposes of creating an unusually large building lot or to simplify deeds or other transactions, and were developed with a single-family, two-family or multifamily dwelling or left undeveloped. In most instances, such lots cannot be divided in compliance with current lot area, lot width, side yard, usable open space or lot coverage requirements, although such division would result in lots that are consistent with the predominant established lot sizes and development pattern in the immediate vicinity of the property. It is often desirable to permit the division of these lots to increase opportunities for infill housing development that is compatible with the surrounding neighborhood.

(3) *Existing two-family dwelling use.* The use of a property containing a two-family dwelling existing on the effective date of the ordinance from which this provision is derived, located within a district which permits two-family dwellings, which does not comply with applicable lot area requirements, and for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued for two-family use, where such use has been continuous since the issuance thereof. The continued use of these properties as two-family dwellings shall be permitted, provided that:

a. The applicant can show that the property was acquired in good faith. The Board shall consider, among other factors, the extent to which the present and/or previous owners relied on previously issued permits or other actions by the City, or representations by sellers, agents, attorneys or others involved in the acquisition of the property;

b. A minimum lot area of 1,700 square feet shall be provided;

c. A minimum of two off-street parking spaces shall be provided.

Intent statement. In many older areas of the City zoned to permit two-family dwellings, some existing single-family dwellings were converted to two-family dwellings in violation of applicable lot area requirements. In some instances, permits were issued by the City for these conversions. Other conversions occurred without the benefit of any permits, but subsequently building permits for additions or alterations, certificates of use and occupancy or certificates of zoning compliance may have been issued. The lots on which these two-family dwellings exist are often similar in size to other legally existing two-family dwellings. The lot area and off-street parking requirements contained in the conditions in this subsection are those which were in effect prior to June 1, 1960, in those areas of the City where many of these conversions took place.

(4) *Existing multifamily dwelling use.* The use of a property containing a multifamily dwelling existing on the effective date of this provision, located within a district which permits two-family or multifamily dwellings, which does not comply with applicable lot area and/or off-street parking requirements, and for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued for the existing use, where such use has been continuous since the issuance thereof. The continued use of these properties as multifamily dwellings shall be permitted, provided that:

a. The subject property shall have been zoned to permit multifamily dwellings at the time such use was created, or was subsequently zoned to permit multifamily dwellings, and the applicable lot area and/or off-street parking requirements were not met;

b. The applicant can show that the property was acquired in good faith. The Board shall consider, among other factors, the extent to which the present and/or previous owners relied on previously issued permits or other actions by the City, or representations by sellers, agents, attorneys or others involved in the acquisition of the property;

c. A minimum of 850 square feet of lot area shall be provided for each dwelling unit;

d. A minimum of two-thirds of a parking space shall be provided for each dwelling unit;

e. The Board shall be satisfied that the design or configuration characteristics unique to the existing building would render it impractical or not economically viable for uses permitted by applicable provisions of this chapter. The Board may, in its discretion, in consideration of the design or

configuration characteristics of the building and the character of the immediate surrounding neighborhood, grant a lesser number of dwelling units than requested.

Intent statement. In many older areas of the City, some existing single- and two-family dwellings were converted to multifamily dwellings, or additional units were added to existing multifamily dwellings, in violation of applicable lot area and/or off-street parking requirements. In some instances, permits were issued by the City for these conversions. Other conversions occurred without the benefit of any permits, but subsequently building permits for additions or alterations, certificates of use and occupancy or certificates of zoning compliance may have been issued. The lots on which these multifamily dwellings were developed are often similar in size to other legally existing multifamily dwellings. The lot area and off-street parking requirements contained in the conditions in this subsection are those which were in effect prior to June 1, 1960, in those areas of the City where many of these conversions took place.

(5) *Dwelling units in UB, B and RF districts.* The provisions in the use regulations of the UB, B and RF districts limiting the amount or location, or both, of floor area within the building that may be devoted to dwelling units or providing that certain portions of the ground floor of the building shall be devoted to other permitted principal uses, provided that:

a. The applicant has demonstrated to the satisfaction of the Board that, due to the existing or projected land uses of properties on the same block, there is no purpose to be served by providing for uninterrupted commercial frontage on the property, or that ground floor commercial space on the property is either not physically practical or not economically viable;

b. The applicant has demonstrated to the satisfaction of the Board that granting the exception will increase residential occupancy thereby facilitating a mixed use character of the district in which the property is located consistent with objectives for mixed use in the area;

c. The applicant has demonstrated to the satisfaction of the Board that any alterations to the building will not be architecturally incompatible with the dominant character of building façades on the block;

d. The Board may attach such conditions as it deems necessary to ensure that the building façade fenestration and the location and nature of pedestrian and vehicular ingress and egress are compatible with the surrounding area.

Intent statement. There are areas within UB, B and RF districts in the City where the established or projected character of development suggests that uninterrupted commercial frontage is not the most desirable form of development and/or that a mixed use character of development with a large dwelling component would be more advantageous to the livability and economic viability of the area. Also, there are properties and existing buildings within such districts where it is not physically or economically viable to establish ground floor commercial space or to limit the amount or location of ground floor area devoted to dwelling units. In such instances, there is a need for flexibility in application of the restrictions on the use of ground floor space within a building, so long as new or renovated buildings are functionally and architecturally compatible with the surrounding area.

(6) *Accessory lodging units within a single-family dwelling.* Not more than two accessory lodging units within an owner-occupied single-family detached dwelling located in any district, provided that:

a. The applicant can show to the satisfaction of the Board that the dwelling unit is of such size and arrangement that the lodging units can reasonably be accommodated, and that incorporating such lodging units within the dwelling will not create potential adverse impacts on adjoining and surrounding properties;

b. When one lodging unit is located within a dwelling, not more than two persons shall occupy such lodging unit, and when two lodging units are located within in a dwelling, not more than one person shall occupy each lodging unit. At the request of the Zoning Administrator, the premises shall be made accessible to the Zoning Administrator by the owner of the property for purposes of verification of compliance with occupancy limitations;

c. There shall be no addition or exterior modification to the dwelling to accommodate the lodging

units, and there shall be no signage or other evidence visible from the exterior of the dwelling to indicate that it contains lodging units;

d. At the discretion of the Board, and to the extent that it does not detract from the single-family character of the property or the surrounding area, one off-street parking space shall be provided for each lodging unit.

Intent statement. Many single-family detached dwellings in the City are of such size or contain such numbers of rooms that the dwelling exceeds the needs of the owner-occupant family or results in an excessive physical or economic burden on the owner to provide adequate maintenance and upkeep. In some instances it is desirable to convert a room or group of rooms within such dwelling to one or two accessory lodging units with limited occupancy in order to enable more reasonable physical utilization or greater economic use of the dwelling and to enhance the potential for adequate maintenance and upkeep, continued owner-occupancy and avoidance of pressures for conversion to additional dwelling units or to nondwelling use, provided that the single-family character of the property is preserved and there are no adverse impacts on the surrounding neighborhood.

(7) *Dwelling unit in an accessory building in a single-family residential district.* One dwelling unit located in an accessory building which is existing on the effective date of the ordinance from which this provision is derived and which is located on the same lot as an owner-occupied single-family dwelling within any R-1 through R-5 Single-Family Residential District, provided that:

a. The Board is satisfied from evidence provided by the applicant that the accessory building was previously lawfully occupied by a dwelling unit for domestic employees, a dwelling unit existing prior to establishment of zoning in the City or a dwelling unit previously authorized by the Board;

b. The Board is satisfied that the area of the lot, lot coverage and location of the accessory building on the lot are such that the dwelling unit will not result in overcrowding of the lot or any adverse impact on adjoining or surrounding property;

c. The use of the main building shall be limited to a single-family dwelling and shall not include accessory lodging units;

d. The use of the accessory building shall be limited to one dwelling unit in addition to permitted accessory uses;

e. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Uniform Statewide Building Code, and exterior modifications to the structure shall be in keeping with the architectural character of the existing dwelling on the property;

f. Not less than one off-street parking space shall be provided for the dwelling unit in the accessory building;

g. Access to the accessory building shall be provided in accordance with the requirements of the Department of Public Works and the Department of Fire and Emergency Services.

Intent statement. In many older areas of the City, some residential properties were developed with accessory buildings which were originally designed and used for carriage houses, dwellings for domestic employees or other dwelling purposes. With the exception of dwellings for domestic employees, dwelling units in accessory buildings in single-family districts have been prohibited since zoning was established in the City. In some cases, such dwelling units have been authorized by the Board. Some accessory buildings have previously been lawfully occupied by a dwelling unit and are located on lots large enough to accommodate such use. They are well suited for such use and are worthy of preservation, but some are in poor condition. Permitting a dwelling unit within them would encourage their renovation or continued maintenance and would be in the best interest of the neighborhood, provided that the additional dwelling unit would not result in overcrowding of the lot or any adverse impact on adjoining or surrounding property.

(8) *Dwelling unit in an accessory building in a district permitting two-family dwelling use.* One dwelling unit located in an accessory building, containing two or more stories, which is existing on the effective

date of the ordinance from which this provision is derived and which is located on the same lot as a single-family dwelling within districts which permit two-family dwellings when the applicable lot area requirement for two-family dwelling use cannot be not met, provided that:

a. The use of the main building shall be limited to a single-family dwelling and shall not include accessory lodging units;

b. The use of the accessory building shall be limited to one dwelling unit in addition to permitted accessory uses;

c. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code, and exterior modifications to the structure shall be in keeping with the architectural character of the existing dwelling on the property;

d. Not less than one off-street parking space shall be provided for the additional dwelling unit located in the accessory building;

e. Access to the accessory building shall be provided in accordance with the requirements of the Department of Public Works and the Department of Fire and Emergency Services.

Intent statement. In many older areas of the City zoned to permit two-family dwellings, some residential properties were developed with accessory buildings containing two or more stories which were originally designed for use as stables, carriage houses and/or domestic employees' quarters. With the exception of domestic employees' quarters, residential occupancy of accessory buildings has been prohibited since 1927. Many of these accessory buildings are currently being occupied and/or rented for non-employee residential use. In some instances, residential use has been approved by City Council or the Commission of Architectural Review. However, many of these accessory buildings have been occupied or were converted illegally. Most of these structures are worthy of preservation, but many are in poor condition. Permitting a dwelling unit within these accessory buildings would encourage their renovation and/or continued maintenance.

(9) *Home occupation use of an accessory building.* A home occupation as defined in Section 30-1220 and conducted within a completely enclosed accessory building, provided that:

a. Home occupation use of accessory buildings shall be limited to offices, including business, professional and administrative offices, and studios of writers, designers or artists engaged in the graphic arts.

b. All of the conditions set forth in Section 30-694.1 shall be met, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

c. The applicant demonstrates to the satisfaction of the Board that such home occupation will not result in any greater impacts on adjoining and surrounding properties than would result if the home occupation were conducted within the dwelling unit.

Intent statement. It is the intent of this exception to enable limited home occupation use of an accessory building in a manner that will not result in adverse impacts on adjoining properties by providing review by the Board with consideration for the specific characteristics of the home occupation, the location and nature of the accessory building and its relation to adjoining and surrounding properties, and with the opportunity for the Board to impose such conditions and safeguards as necessary.

(10) *Height of fences and walls in side yards, rear yards and certain front yards.* Fences and walls not exceeding eight feet in height when located within a required side yard, rear yard, street side yard on a corner lot, required front yard along the longer street frontage of a corner lot or a required front yard adjacent to the rear of a main building located on a through lot. For purposes of this subsection, the height of a fence or wall shall be measured from the ground level at the base of the fence or wall, and shall include the height of posts, columns, gates and ornamentation. Fences and walls of such height shall be permitted, provided the Board shall be satisfied that:

a. The property on which the fence or wall is to be constructed is devoted to a conforming dwelling

use.

b. The applicant has demonstrated that the proposed height of the fence or wall is reasonably necessary to provide security for the property and/or to provide a buffer from noise and activity on the adjacent street.

c. The design and construction materials of the fence or wall will be compatible with the main building and other structures located on the lot and with the general character of development in the immediate surrounding area.

d. The fence or wall will not unreasonably impair light and air to adjacent property, and will not impair necessary visibility for operators of motor vehicles at any intersection of the adjacent street with an alley, driveway or other street.

e. The fence or wall will be constructed in compliance with applicable requirements of the Virginia Uniform Statewide Building Code.

Intent statement. In many neighborhoods in the City, corner properties are situated at intersections where the street along the side of the property carries volumes of traffic or generates traffic noise that is disruptive to and not conducive to dwelling use of the property or to the use and enjoyment of the rear yard area of the lot. In addition, such corner properties are sometimes in need of enhanced security measures for the property in general and the rear yard area in particular. Also, many properties are situated adjacent to alleys or constitute through lots, resulting in similar traffic or security issues, or are situated relative to adjacent properties whereby adequate security or privacy cannot be afforded under normal fence and wall height limitations. It is often desirable in such situations to permit greater height of fences and walls than normally permitted by the zoning regulations in order to provide a more effective buffer from the street, alley or adjacent property or to provide greater security and privacy for the property as means to promote dwelling use and enjoyment of the property.

(11) *Off-street parking.* The provisions setting forth the number of off-street parking spaces required for a use or required in the case of a change in a nonconforming use, provided that:

a. The applicant has demonstrated to the satisfaction of the Board that, based on the character of uses and the availability of parking in the surrounding area, the exception will not result in an inadequate supply of parking or other adverse impact on the neighborhood;

b. The applicant has demonstrated to the satisfaction of the Board that adequate parking to serve the needs of the use is provided on the site or within reasonable and convenient proximity of the use, either on a public street or off-street;

c. The applicant has demonstrated to the satisfaction of the Board that the number, location and arrangement of parking spaces intended to serve the use is sufficient to provide for its parking needs based on the nature of the use and the characteristics of its operation, including, but not limited to, its scale, hours of operation and the amount of walk-in customer or client traffic from the adjacent neighborhood;

d. In any case where off-street parking spaces required to serve a use are provided off the premises devoted to such use, the applicant shall submit written certification to the Board on an annual basis, by no later than the anniversary date of the exception granted, as to the continued availability of the off-premises parking spaces. Failure of the applicant to submit such certification shall be grounds for revocation of the exception.

Intent statement. There are many properties in the City that are inhibited from being devoted to reasonable use due to the inability to provide the required number of off-street parking spaces, or due to the prohibition of a change in a nonconforming use when a proposed new use is required to be provided with more off-street parking than the existing use, but would otherwise be permitted by the nonconforming use provisions. In many such cases, there may be particular potential uses having unique characteristics that result in a need for fewer off-street parking spaces than generally required for the use by the zoning provisions and/or there may be excess parking spaces available in the immediate vicinity of the property that can adequately serve the needs of the use. In cases where such properties are not

concentrated in an area that would be appropriate for application of a parking overlay district or where nonconforming uses are involved, there is a need to address the off-street parking requirements on a site-specific basis and in a manner that enables reasonable use of the property and does not create a shortage of parking or other adverse impact on the area.

(12) *Nonconforming use: lot division to accommodate existing buildings.* Division of a lot developed with one or more nonconforming uses existing on the effective date of the ordinance from which this provision is derived into two or more lots. (For division of a lot to accommodate permitted single-family detached, single-family attached, two-family or multifamily dwellings, see Section 30-620.5.) The division of such lot shall be permitted, provided that:

a. The applicant can show to the satisfaction of the Board that the property was acquired or the current use was established in good faith, that the buildings cannot reasonably be devoted to conforming uses, and that such division will not increase potential adverse impacts of the nonconforming use on adjoining and surrounding properties;

b. All new lots shall comply with Section 30-610.1 of this chapter regarding public street frontage and access to lots;

c. The division shall result in at least one main building being located on each lot, and lot area, lot width, yards and existing off-street parking shall be allocated to the newly created lots on a basis reasonably proportional to the buildings and uses contained on each lot;

d. If the off-street parking requirements of the current ordinance are not met, reasonable efforts shall be made to provide additional off-street parking to meet those requirements;

e. The division shall not result in the ability to create additional dwelling units or to accommodate other uses which would not have otherwise been permitted prior to the division;

f. The division shall comply with the applicable requirements of Chapter 25 regarding the subdivision of land.

Intent statement. In many older areas of the City, some properties were originally developed with more than one main building on a lot, or several separately developed lots under common ownership were combined for purposes of simplifying deeds or other transactions. In many instances, the uses on these properties are nonconforming under current use regulations, resulting in prohibition of the lots being divided. It is often desirable to permit division of these properties into separate lots in order to enhance their potential for reasonable economic use and to increase opportunities for individual ownership, including owner occupancy, or to facilitate financing, insurance or resale, particularly in cases where there is no practical difference in the intensity of uses of the properties as a result of the division.

(13) *Nonconforming use: enlargement, extension or alteration.* Enlargement, extension or structural alteration of a building or structure devoted to a nonconforming use; extension or expansion of a nonconforming use within a building or structure; or construction of an accessory building or structure to serve an existing nonconforming use; provided that:

a. The applicant can show to the satisfaction of the Board that such enlargement, extension, expansion, alteration or construction is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely and in a manner that does not adversely impact adjoining and surrounding properties;

b. In no case shall the amount of floor area devoted to the nonconforming use be increased more than ten percent;

c. There shall be no increase in the number of dwelling units on the property, nor shall the granting of such exception result in noncompliance with any yard, open space, parking or other requirements of this chapter or any increase in the degree or extent of any nonconforming feature;

d. There shall be no increase in the area of any lot devoted to a nonconforming use, unless such increase is for purposes of enhancing screening, buffering, separation or other amenities or means of protection for adjoining and surrounding properties; and

e. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. Due to the large number and wide variety of nonconforming uses in the City, there is a need for flexibility and discretion in their treatment in order to recognize that in many cases continuation, improvement and modernization of a nonconforming use is in the best interest of the City and is necessary to enable reasonable use of a building that may have little or no other use potential. Modest expansion, enlargement, structural alteration or addition of accessory facilities, together with improvements to enhance the compatibility of a nonconforming use, is a preferable alternative to vacant, underutilized or poorly-maintained properties in cases where conversion to conforming uses is not practicable.

(14) *Nonconforming use: re-establishment or change in use.* Re-establishment of or change in a nonconforming use of a building or structure which has been discontinued for a period of two years or longer, provided that:

a. The property owner can show to the satisfaction of the Board that the property was acquired or the current use was established in good faith and that the building or structure cannot reasonably be devoted to a conforming use;

b. If a nonconforming use is changed to a more restricted use or a conforming use, the Board shall not authorize re-establishment of the nonconforming use or any change to a less restricted use;

c. If the building or structure is vacant or the nonconforming use has been changed to an illegal use, the Board may authorize re-establishment of the last nonconforming use or change to a use that meets all of the criteria set forth in Section 30-800.3(a), except that the Board may authorize change to a use that does not meet the off-street parking criteria of that subsection if the Board finds that the change will not result in an adverse impact on the neighborhood due to an inadequate supply of parking; and

d. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. In some cases, nonconforming uses have been discontinued and buildings have remained vacant for a period of two years or longer where there was no intent to relinquish the nonconforming rights associated with the property. In other cases, nonconforming uses have been changed to uses in violation of applicable provisions of this chapter. In many of these instances, the buildings in question have little or no potential for conforming uses, and occupancy by the last nonconforming use, or a more restricted use or other limited use would result in reasonable economic use and improvement of the property and would be in the best interest of the neighborhood and the general public.

(15) *Nonconforming use: reduction in lot area.* Reduction in the area of a lot on which a nonconforming use is located, provided that:

a. The applicant can show to the satisfaction of the Board that such reduction will not increase potential adverse impacts of the nonconforming use;

b. There shall be no reduction in the area of any lot devoted to a nonconforming dwelling use, located in a single-family residential district. For purposes of this provision, the division of a lot shall not be construed to constitute reduction in the area of the lot. In districts other than single-family residential districts, the area of a lot devoted to a nonconforming dwelling use may be reduced to not less than the lot area required for the dwelling use in the R-48 or R-63 district;

c. The reduction shall not result in noncompliance with any lot area, lot width, yard, open space, lot coverage or off-street parking or other requirements of this chapter applicable in the district in which the property is located or any increase in the degree or extent of any nonconforming feature;

d. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. Reduction in the area of a lot on which a nonconforming use is located is generally prohibited by this chapter since in most cases it would increase the intensity of the use and its potential adverse impacts on adjoining and surrounding properties. However, some properties devoted to nonconforming uses are of such large size or are developed, arranged or used in such a manner that reduction in the area of the lot would reduce the extent or intensity of the use or result in equal or greater compatibility with neighboring uses. Reduction in lot area in such cases could result in less area devoted to outdoor activity, reduction in the number of buildings on a site or reduction in overall area of the nonconforming use. It may enable the area removed from the lot to be devoted to conforming use, landscaped buffer or other use beneficial to adjoining and surrounding properties.

(16) *Nonconforming use: addition of accessory off-street parking.* The addition of accessory off-street parking spaces to serve a nonconforming use, provided that:

a. The nonconforming use shall be located in a district other than an R district, unless the nonconforming use is a dwelling use as defined in Section 30-1220;

b. The accessory off-street parking spaces shall be located on the same lot as the nonconforming use, or on a contiguous lot;

c. The total number of accessory off-street parking spaces existing and to be provided for the nonconforming use shall not exceed the number of spaces required for the use by the provisions of Article VII of this chapter;

d. The addition of accessory off-street parking spaces shall not result in the demolition of any main building;

e. All applicable off-street parking improvement requirements and landscaping standards set forth in Article VII, Division 2.1 of this chapter shall be met where feasible, as determined by the Board, provided that the Board may impose such conditions and further limitations as it may deem necessary in the public interest;

f. The applicant has shown to the satisfaction of the Board that such additional accessory off-street parking spaces will not result in any greater adverse impacts on adjoining and surrounding properties than would result without the additional parking.

Intent statement. The addition of off-street parking spaces to serve a nonconforming use is generally prohibited by this chapter, since it constitutes extension or expansion of the nonconforming use. However, there are instances in the City where nonconforming uses are likely to continue to exist and are generally not detrimental to adjacent and surrounding properties, but where such nonconforming uses are not provided with adequate off-street parking to meet the needs of the use or to avoid adverse impacts on the surrounding area. It is the intent of this exception provision to enable the addition of off-street parking spaces to serve such nonconforming uses in order to relieve potential on-street congestion and to provide adequate parking in a manner that will not result in adverse impacts on neighboring properties, by providing review by the Board with consideration for the specific characteristics of the use and its relation to adjoining and surrounding properties, and with the opportunity for the Board to impose such conditions and safeguards as necessary.

(17) *Building height.* The maximum permitted building height in any district except R-1 through R-8 districts, provided that:

a. The proposed use of the building shall be consistent with the use regulations applicable in the district in which the property is located;

b. Applicable off-street parking requirements shall be met, unless the Board in a specific case grants a variance from or exception to the off-street parking requirement pursuant to the provisions of this division;

c. The applicant has demonstrated to the satisfaction of the Board that the additional height authorized by such exception will not unreasonably impair light and air to adjacent or nearby property and will not unreasonably impair prominent views of significant land, water or other features from public spaces or from adjacent or nearby property;

d. The Board shall be satisfied that the design, construction materials and overall mass of the building will be compatible with the general character of development in the immediate surrounding area.

Intent statement. In some cases, due to unusual conditions such as location, topography, other site conditions, lot orientation or the established or changing character of nearby development, the building height limit applicable in the district in which a property is located is not conducive to achieving the full development potential of the property consistent with the general intent of the district. Additional building height may also be appropriate where taller buildings are located nearby and to establish a transition from taller buildings to buildings of less height, or to enable the maximum permitted residential density or nonresidential intensity on a site while preserving open space at ground level where needed. In such cases, flexibility to enable additional building height is desirable as a means to adapt to unusual conditions, enhance the economic viability of the property and promote economic development for the benefit of the general public, so long as light and air, prominent views and the character of the surrounding area are adequately protected.

(18) *Freestanding signs.* The height and yard provisions applicable to permitted freestanding signs, other than billboard signs, provided that:

a. The applicant has demonstrated to the satisfaction of the Board that, due to topography or configuration of the site, elevation of the site relative to the elevation of the adjacent street, curvature of the adjacent street, structural improvements or vegetation on the site or on adjoining properties, or similar physical constraints, the height and/or yard requirements applicable to a permitted freestanding sign on the site would prohibit or unreasonably impair visibility of such sign from the adjacent street;

b. The applicant has demonstrated to the satisfaction of the Board that the proposed height and location of the freestanding sign is the minimum departure from the regulations necessary to enable adequate identification of the use of the property, taking into consideration the nature of such use and character of the surrounding area, and is not for the purpose of affording a competitive advantage for the use of the property;

c. The applicant has demonstrated to the satisfaction of the Board that the proposed freestanding sign will not impair public safety, will not interfere with visibility of traffic on adjacent streets or driveways intersecting streets, and will not unreasonably impair visibility of traffic signs, directional signs or other permitted identification signs in the area;

d. The Board may attach such conditions and safeguards as it deems necessary to carry out the intent of this subsection, including, but not limited to, the size, location, configuration and illumination of the proposed freestanding sign and other signs on the property.

Intent statement. There are instances in the City where adequate identification of uses is not afforded by the height limitations or yard regulations, or both, applicable to permitted freestanding signs because of unusual physical characteristics of the property or the adjacent area. In such instances, there is a need for flexibility in application of the height or yard regulations, or both, for freestanding signs to enable adequate identification for the convenience of the public and to promote the economic viability of the uses such signs are intended to identify, so long as public safety is safeguarded, visibility of other permitted signs in the area is not impaired and the character of the freestanding sign is appropriate for the property and the surrounding area.

(Code 1993, § 32-1040.3; Code 2004, § 114-1040.3; Code 2015, § 30-1040.3; Ord. No. 2004-49-60, § 1, 3-22-2004; Ord. No. 2005-339-2006-10, § 1, 1-9-2006; Ord. No. 2006-293-304, § 1, 12-11-2006; Ord. No. 2007-111-81, § 1, 4-23-2007; Ord. No. 2007-112-82, § 1, 4-23-2007; Ord. No. 2007-113-83, § 1, 4-23-2007; Ord. No. 2007-283-248, § 1, 11-12-2007; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2008-45-63, § 1, 3-24-2008; Ord. No. 2008-188-192, § 1, 9-8-2008; Ord. No. 2012-74-84, § 3, 6-11-2012)

Sec. 30-1040.4. Variances granted by the Zoning Administrator.

(a) Pursuant Code of Virginia, § 15.2-2286, and in accordance with the following criteria, the Zoning Administrator shall be authorized to grant such variances from the yard requirements of this chapter as set forth in subsection (b) of this section:

(1) The Zoning Administrator finds in writing that:

a. The strict application of this chapter would produce undue hardship;

b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

c. The authorization of the variance will not be of substantial detriment to adjacent property; and

d. The character of the zoning district will not be changed by the granting of the variance.

(2) A variance granted by the Zoning Administrator shall be the minimum necessary to relieve the hardship.

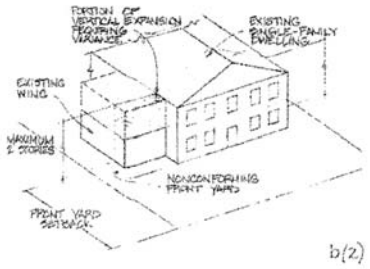
(3) Prior to the granting of a variance, the Zoning Administrator shall give all adjoining property owners, as shown on the current real estate tax assessment records of the City, written notice of the request for the variance. Such owners shall be given an opportunity to respond to the request within 21 days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision in accordance with the rules of procedure of the Board.

(4) Applications for variances authorized under this section shall be submitted to the Zoning Administrator on forms provided by the Zoning Administrator for such purpose, along with such plans as required by the Zoning Administrator, and shall be accompanied by a fee of $100.00, which fee shall be paid into the Treasury of the City.

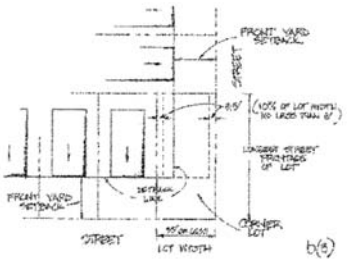
(b) The Zoning Administrator shall be authorized to grant a variance from:

(1) The interior side yard and rear yard requirements set forth in this chapter for single-family and two-family detached and attached dwellings and their accessory structures;

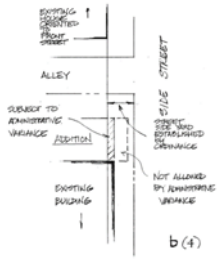
(2) Section 30-810.1 to enable no more than a second story vertical expansion of an existing building devoted to a single-family detached dwelling which is nonconforming with regard to the front yard or street side yard requirement;



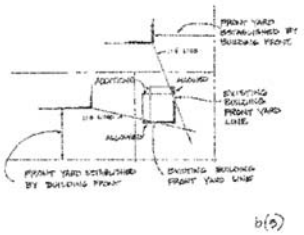
(3) Section 30-630.1(a) with regard to the depth of the required front yard along the longer street frontage of the lot for construction of or an addition to a single-family detached dwelling located on a corner lot of record existing on April 25, 2005, and having a width of 35 feet or less, provided that no such variance shall permit a front yard with a depth less than ten percent of the width of the lot, and in no case less than three feet;



(4) Section 30-630.1(a) with regard to the depth of the required street side yard in the case of an addition to a single-family detached dwelling existing on April 25, 2005, provided that no such variance shall permit a street side yard with a depth less than the street side yard provided for the existing building;



(5) Section 30-630.2(b)(2) with regard to the depth of a required front yard on a corner lot in the case of an addition to a single-family detached dwelling existing on April 25, 2005, when such addition would have a front yard equal to or greater than the minimum required by the district regulations, provided that no such variance shall permit a front yard with a depth less than the front yard provided for the existing building.



(Code 2004, § 114-1040.4; Code 2015, § 30-1040.4; Ord. No. 2004-49-60, § 2, 3-22-2004; Ord. No. 2005-51-46, § 1, 4-25-2005; Ord. No. 2010-237-2011-16, § 1, 1-24-2011)

DIVISION 5.1. CONDITIONAL USE PERMITS

Sec. 30-1045.1. Intent.

Pursuant to Code of Virginia, §§ 15.2-2286, 15.2-2303, conditional use provisions are intended as a means for the City Council, after review and recommendation by the Planning Commission, to authorize certain uses which, although generally appropriate in the district in which they are permitted, have potentially greater impacts on neighboring properties than uses which are permitted by right. Such uses may or may not be appropriate at a particular location in the district depending on surrounding land uses, other site-specific factors, and determination in each case of potential local impacts from the use and the measures proposed by the applicant to mitigate any adverse impacts. The conditional use permit procedure provides the opportunity for the City Council to review each proposed conditional use and to approve or disapprove the use or impose such conditions as reasonably necessary to ensure the use will be compatible with the surrounding area and consistent with the purposes of this chapter.

(Code 1993, § 32-1045.1; Code 2004, § 114-1045.1; Code 2015, § 30-1045.1)

Sec. 30-1045.2. Required; effect.

(a) *Required for certain uses.* A use indicated as permitted as a conditional use in Article IV of this chapter shall be authorized only upon approval of a conditional use permit by the City Council in accordance with this

article.

(b) *Effect of conditional use listing.* The listing of a use as being permitted in a particular district by conditional use permit does not constitute assurance or presumption that a conditional use permit for such use will be approved. Approval of a conditional use permit for a particular use at a specific location within a district is subject to evaluation by the City Council and a determination in each case based on the standards and conditions set forth in this article.

(c) *Relation to other permits.* Building permits, certificates of use and occupancy and certificates of zoning compliance and related reviews and approvals required by this chapter are required for conditional uses in the same manner as for other uses. No building permit, certificate of use and occupancy or certificate of zoning compliance for a conditional use or for a building devoted to a conditional use shall be issued unless a conditional use permit has been approved.

(d) *Existing uses.* A use lawfully existing at the effective date of the ordinance from which this division is derived which is specified as a conditional use in the district in which it is located and for which no conditional use permit has been approved shall not be considered a nonconforming use because of its classification as a conditional use, nor shall the lack of a conditional use permit be considered a nonconforming feature of such use, provided that:

(1) No building permit, certificate of use and occupancy or certificate of zoning compliance involving expansion of such use or major reconstruction, enlargement or moving a building devoted to such use shall be issued, nor shall any material change in the program or operating characteristics of such use take place that would increase the intensity of the use, unless a conditional use permit is approved in accordance with this article;

(2) Except as provided in subsection (d)(3) of this section, whenever such use is discontinued for a period of two years or longer, whether or not equipment or fixtures are removed, the use shall not be reestablished unless a conditional use permit is approved in accordance with this division; and

(3) When a building devoted to such use is damaged by fire, explosion, act of God or the public enemy to any extent, such building may be restored, repaired, reconstructed and used as before such damage without approval of a conditional use permit, provided that the floor area devoted to the use shall not be increased, and provided further that application for a building permit for the restoration, repair or reconstruction shall be submitted within two years of the date of damage.

(Code 1993, § 32-1045.2; Code 2004, § 114-1045.2; Code 2015, § 30-1045.2; Ord. No. 2011-29-150, § 12, 9-12-2011)

Sec. 30-1045.3. Application.

Applications for conditional use permits shall be submitted to the Department of Planning and Development Review and may be filed by the owner or with the written consent of the owner of the property which is the subject of the proposed conditional use permit. Applications shall be accompanied by an applicant's report describing the proposed conditional use and explaining the manner in which it complies with the requirements and standards of this chapter, together with such plans and other information as set forth in written administrative policy adopted by the Planning Commission.

(Code 1993, § 32-1045.3; Code 2004, § 114-1045.3; Code 2015, § 30-1045.3; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1045.4. Procedure for issuance.

(a) *Review by staff.* Staff of the Department of Planning and Development Review shall review each application for a conditional use permit and forward the application to the Planning Commission along with a report indicating the manner in which the proposed conditional use complies or does not comply with this chapter and its recommendations regarding approval, disapproval or conditions to be attached.

(b) *Action by Planning Commission.* The Planning Commission shall review each conditional use permit application for compliance with this chapter and shall provide a recommendation to the City Council in accordance with the following:

(1) The Commission shall hold a public hearing on the conditional use permit application. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City

Assessor and shall be as shown on the then-current tax records of the City.

(2) After holding a public hearing, the Commission may recommend approval or disapproval of the conditional use permit or that additional conditions be imposed. In making its recommendation, the Commission shall consider at least the standards indicated in Section 30-1045.5.

(3) Action by the Commission shall be in the form of a motion, giving the reasons for its action.

(4) When the Commission is unable to adopt a motion to recommend approval or disapproval, it shall forward a written report to the City Council stating such fact and summarizing its discussions on the matter.

(5) Failure of the Commission to provide a recommendation or report to the City Council within 100 days after the first meeting of the Commission at which the conditional use permit application appears on its agenda shall be considered a recommendation of approval, unless the application has been withdrawn by the applicant prior to the expiration of such time period.

(c) *Action by City Council.* The City Council shall take action on each conditional use permit application in accordance with the following:

(1) After receiving the recommendation of the Planning Commission, the Council shall hold a public hearing on the conditional use permit application. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City.

(2) The City Council may, by ordinance, approve or disapprove the conditional use permit application and may impose additional conditions as authorized by this division.

(Code 1993, § 32-1045.4; Code 2004, § 114-1045.4; Code 2015, § 30-1045.4; Ord. No. 2009-221-2010-9, § 1, 1-25-2010; Ord. No. 2019-085, § 2, 4-22-2019)

Sec. 30-1045.5. Standards for approval.

A conditional use permit shall be approved by the City Council only if it finds, after consideration of the recommendation of the Planning Commission, that the proposed use and related plans are appropriate at the location proposed based upon its consideration of the following standards and the specific conditions, where applicable, for the particular use in the district in which it is proposed to be located. No conditional use permit shall be approved by the City Council unless it finds the proposed use and development:

(1) Will not be contrary to the general purposes of this chapter as stated in Section 30-100;

(2) Will not be in conflict with the objectives and policies of the master plan for the City;

(3) Will conform with all applicable sections of this article and other applicable requirements of the district in which it is proposed to be located;

(4) Will not substantially diminish or impair the established property values in the neighborhood in which it is proposed to be located;

(5) Will not have an undue adverse effect on the public health, safety or general welfare;

(6) Will not adversely affect the character of the surrounding area or the continued use and development of surrounding property in a manner consistent with applicable zoning regulations or master plan objectives;

(7) Will not cause undue traffic congestion on public streets or significantly increase traffic volumes on minor residential streets;

(8) Will be adequately served by essential public services and facilities and will not cause an undue burden on such services and facilities;

(9) Will not cause the destruction, loss or damage of significant natural, scenic or historic features to any greater degree than development of the property for uses permitted by right in the district;

(10) Will ensure compatibility with surrounding property through existing and proposed landscaping,

screening and buffering and the location, arrangement and character of existing and proposed buildings, structures, open spaces, parking areas, vehicular circulation, driveways, signage and lighting; and

(11) Will not cause or result in any significant increase in negative cumulative impact when considered in conjunction with other conditional uses in the neighborhood in which it is proposed to be located.

(Code 1993, § 32-1045.5; Code 2004, § 114-1045.5; Code 2015, § 30-1045.5)

Sec. 30-1045.6. Specific conditions applicable to particular uses.

The conditions set forth in this section shall be applicable to all the following uses as indicated when authorized by conditional use permit, provided that the City Council may impose such additional or more stringent conditions as deemed necessary to ensure the use will comply with the standards set forth in this article and elsewhere in this chapter:

(1) *Adult care residences, group homes, lodginghouses, shelters.* The following conditions shall be applicable to adult care residences, group homes, lodginghouses and shelters:

a. Not more than 30 persons, including staff, shall reside on the premises;

b. When located in any district other than a business district, no property devoted to such use shall be situated within 1,320 feet of property occupied by another adult care residence, group home, lodginghouse, shelter or any social service delivery use;

c. When located in any business district, no property devoted to such use shall be situated within 500 feet of property occupied by another adult care residence, group home, lodginghouse, shelter or any social service delivery use;

d. No group home or shelter shall be located within the same building as another dwelling use; and

e. A management program, addressing not less than the following elements, shall be submitted as part of the conditional use permit application. The planning commission may recommend and the City Council may include as conditions such elements of the management program as it deems necessary to satisfy the standards set forth in Section 30-1045.5. If a particular element listed is not applicable to a specific type of use because of the characteristics of that use, the management program shall include a statement of why the element is not applicable:

1. Detailed description of the managing entity, including the organizational structure, names of the board of directors, mission statement, and any bylaws.

2. Detailed description of programs offered on the premises, including operating procedures and characteristics, the intent of the programs and a description of how the programs support a long-term strategy for meeting the residents' or clients' needs.

3. Detailed description of off-site programs offered, and/or description of linkages to programs operated by others.

4. Detailed description of the number and type of residents or clients to be served, including an outline of program objectives, eligibility criteria, and requirements for referrals to other programs.

5. Operational details for on-site programs, including:

i. Hours of operation;

ii. Number and type of staff, staff qualifications, and typical hours worked by staff;

iii. Method of resident or client supervision;

iv. Operating procedures including procedures for orienting a new resident or client to the facility's programs;

v. Expectations for residents or clients;

vi. Prerequisites for continued client enrollment such as a requirement that the resident or client participate in programs;

vii. Rules of behavior for residents or clients;

viii. The location and nature of any security features and arrangements; and

ix. Names and telephone numbers of persons to contact in emergencies and any emergency procedures.

6. Annual operating budget, including sources of funding.

(2) *Social service delivery uses.* The following conditions shall be applicable to social service delivery uses:

a. No property devoted to such use shall be situated within 500 feet of property occupied by another social service delivery use or any adult care residence, group home, lodginghouse or shelter; and

b. A management program shall be submitted as set forth in subsection (1)e of this section.

(3) *Nondwelling uses occupying the ground floor of existing buildings in the R-8 district.* The following conditions shall be applicable to nondwelling uses occupying the ground floor of existing buildings in the R-8 district:

a. Before approving a conditional use permit for any such use, the City Council shall make a finding that the location of the property, the type of use and the scale and operational characteristics of the use are such that, if approved, the use can reasonably be expected to primarily serve the adjacent neighborhood and be sustainable as a neighborhood convenience use, and will avoid traffic, parking congestion, noise and other impacts that more typically result from uses that draw patrons from outside a neighborhood.

b. For any nondwelling use operating with an ABC license, such use shall not be operated between the hours of 10:00 p.m. and 6:00 a.m.

c. Alterations to the exterior of the building, including façade treatment, fenestration, signage and lighting shall be designed to maximize compatibility with the residential character of the surrounding area. Elevation drawings of the building shall be submitted as part of the conditional use permit application.

d. No music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the portion of the building devoted to the use.

e. An operations plan, addressing not less than the following elements and providing such information as necessary to enable the City Council to make the finding described in subdivision a of this subsection, shall be submitted as part of the conditional use permit application:

1. Operational characteristics and features of the use, including: staffing levels; hours of operation; type of ABC license and related restrictions, if applicable; floor plan showing general arrangement of the use and seating capacity of tables and other facilities for patrons, if applicable; description of intended use of the upper floor or floors of the building, including floor plans and plans for ingress and egress; provisions for containing trash and refuse generated by the use, including screening of containers, and means of preventing trash from blowing onto adjacent properties or streets; and provisions for off-street parking, if applicable.

2. Provisions for security, including procedures, features, arrangements and staffing levels for such for both the interior and exterior of the premises, and a plan and procedures for mitigating potential adverse impacts on nearby dwelling uses.

3. The City Planning Commission may recommend and the City Council may include as conditions such elements of the operations plan as it deems necessary to satisfy the standards set forth in this section or in Section 30-1045.5.

(4) *Required off-street parking for multifamily dwellings in the B-7 district.* Before approving a conditional use permit for reduction of required off-street parking for a multifamily dwelling located in an existing building in the B-7 district, the City Council shall make a finding that:

a. The normally applicable off-street parking requirement for such use cannot reasonably be satisfied

without demolition of an existing building; and

b. The reduction in required off-street parking will not adversely impact the use of nearby streets for traffic circulation or access to other properties or create an unreasonable demand for on-street parking that would adversely impact existing uses in the immediate area.

(5) *Retail sales of liquor.* The following conditions shall be applicable to retail sales of liquor:

a. Except as provided in subdivision b of this subsection (5), such use shall be located within a retail establishment having a total floor area greater than 5,000 square feet, and in which not greater than 50 percent of the total floor area is devoted to the sale and storage of alcoholic beverages as defined by the Code of Virginia;

b. In the case of a retail establishment existing on the effective date of this subsection and having on such date a total floor area of 5,000 square feet or less and greater than 50 percent of the total floor area devoted to the sale and storage of alcoholic beverages as defined by the Code of Virginia, the City Council may waive the conditions of subdivision a of this subsection (5) when the City Council is satisfied that the other applicable provisions of this subsection are met, and provided that in no case shall the existing total floor area of the establishment and the existing percentage of floor devoted to the sale and storage of alcoholic beverages be increased;

c. Such use shall not take place at any time between the hours of 10:00 p.m. and 10:00 a.m.;

d. Drive-up facilities shall not be permitted in conjunction with such use, and retail sales of liquor shall take place only within the interior of the building;

e. The exterior features, including façade treatment, fenestration, signage and lighting, of the building in which such use is located shall be designed to maximize compatibility with the predominant character of surrounding commercial and residential areas, and elevation drawings of the building showing such features shall be submitted as part of the conditional use permit application, except that such drawings shall not be required in a case where no changes are to be made to the exterior of an existing building; and

f. The conditional use permit shall be approved by the City Council only if the applicant satisfies the council that the size and location of the use are reasonably related to the trade area that such use is intended to serve, and will not result in a disproportionate concentration of such uses within any particular area or neighborhood of the City or have a detrimental impact on the surrounding area due to close proximity to residential areas or public, religious or child care facilities.

(6) *Nightclubs.* A management program shall be submitted as part of the conditional use permit application. The planning commission may recommend and the City Council may include as conditions such elements of the management program as it deems necessary to satisfy the standards set forth in Section 30-1045.5. If a particular element listed is not applicable to a specific nightclub because of the characteristics of the nightclub, the management program shall include a statement of why the element is not applicable. The minimum required elements of the management program are as follows:

a. Operational characteristics and features of the nightclub, including the following:

1. Staffing levels;

2. Hours of operation, and days of the week on which the establishment will be operated as a nightclub;

3. Type of Virginia Alcoholic Beverage Control license and related restrictions;

4. Floor plan showing the general arrangement and seating capacity of tables and bar facilities, dance floor and standing room areas and capacity, which floor plan shall be posted on the premises in a prominent location viewable by the patrons;

5. Total occupant load; and

6. General type, frequency and hours of entertainment to be provided;

b. Provisions for off-street parking; and

c. Provisions for security and crowd management, including the following:

1. Provisions for a level of security and crowd management sufficient to comply with the requirements of Chapter 6, Article V, whether or not the nightclub is required to obtain a public dance hall permit;

2. Procedures, features, arrangements and staffing levels for security and crowd management for both the interior and exterior of the premises; and

3. A plan and the procedures for mitigating potential adverse impacts on nearby dwelling and business uses.

(7) *Parking areas and parking lots in the B-4 and B-5 district.* The following conditions shall be applicable for parking areas or parking lots in the B-4 or B-5 district:

a. The access, landscaping, screening, and arrangement of the parking area or parking lot shall be reviewed by the Urban Design Committee prior to the review of the application for the conditional use permit by the Planning Commission. The Urban Design Committee may recommend to the Planning Commission that the Planning Commission recommend that the City Council approve the conditional use permit or may recommend that the Planning Commission recommend that the City Council impose additional conditions. In making its recommendation, the Urban Design Committee shall consider at least the standards set forth in Section 30-1045.5 and the parking improvement requirements and landscaping standards set forth in Sections 30-710.10 through 30-710.16.

(Code 1993, § 32-1045.6; Code 2004, § 114-1045.6; Code 2015, § 30-1045.6; Ord. No. 2010-18-30, § 5, 2-22-2010; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2011-29-150, § 12, 9-12-2011; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2017-019, § 1, 2-27-2017)

Sec. 30-1045.7. Additional conditions.

The Planning Commission may recommend and the City Council may impose such additional conditions and limitations on any conditional use, including its scale, intensity, site development, operation or general character, as deemed necessary or appropriate. Such conditions or limitations may be to prevent, minimize or mitigate potential adverse impacts on the surrounding area or on the City as a whole or to ensure compliance with any of the standards and conditions applicable to conditional uses and set forth in this article. Any such conditions or limitations shall be expressly set forth in the ordinance approving the conditional use.

(Code 1993, § 32-1045.7; Code 2004, § 114-1045.7; Code 2015, § 30-1045.7)

Sec. 30-1045.8. Amendments after approval.

An approved conditional use permit may be amended only in accordance with the procedures and subject to the standards set forth in this article for review and approval of a new conditional use permit.

(Code 1993, § 32-1045.8; Code 2004, § 114-1045.8; Code 2015, § 30-1045.8)

Sec. 30-1045.9. Expiration.

An approved conditional use permit shall become null and void if no application for a building permit to construct the authorized improvements has been submitted within two years of the date of approval by the City Council. A conditional use permit for which no building permit is required shall become null and void if the use is not established within two years of the date of approval by the City Council as evidenced by the issuance of a certificate of use and occupancy or a certificate of zoning compliance. The City Council may, for good cause, specify a longer period in its approval of a conditional use permit.

(Code 1993, § 32-1045.9; Code 2004, § 114-1045.9; Code 2015, § 30-1045.9)

Sec. 30-1045.10. Discontinuance.

A conditional use permit shall run with the land, provided that any use established pursuant to an approved conditional use permit shall not be reestablished if replaced by a different use or if discontinued for a period of two years or longer.

(Code 1993, § 32-1045.10; Code 2004, § 114-1045.10; Code 2015, § 30-1045.10)

Sec. 30-1045.11. Appeals.

Appeals from any decision of the City Council regarding a conditional use permit may be taken to the Circuit Court by any aggrieved party in accordance with applicable sections of State law.

(Code 1993, § 32-1045.11; Code 2004, § 114-1045.11; Code 2015, § 30-1045.11)

Sec. 30-1045.12. Fee for filing application.

(a) A fee of $1,500.00 plus $100.00 per acre shall accompany each conditional use permit application, which fee shall be paid into the City treasury.

(b) A fee of $1,000.00 plus $100.00 per acre shall accompany each application for an amendment to a conditional use permit, which fee shall be paid into the City treasury.

(c) Approval of a conditional use permit or an amendment to a conditional use permit shall not be granted until satisfactory evidence has been presented to the Secretary of the Planning Commission that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 1993, § 32-1045.12; Code 2004, § 114-1045.12; Code 2015, § 30-1045.12; Ord. No. 2007-54-121, § 1, 5-29-2007; Ord. No. 2014-260-2015-10, § 1, 1-12-2015)

Sec. 30-1045.13. Posting of notice on property.

In the case of each application for a conditional use permit or amendment to a conditional use permit, it shall be the responsibility of the Department of Planning and Development Review to post on the property that is the subject of the conditional use permit, a sign or signs notifying interested parties of the application and pending public hearings thereon. Such sign(s) (i) shall be posted at least 15 days prior to the scheduled Planning Commission public hearing on the application, (ii) shall remain on the property until final disposition of the application by the City Council, and (iii) shall comply with any applicable standards established by the Department of Planning and Development Review and approved by resolution of the Planning Commission.

(Code 2004, § 114-1045.13; Code 2015, § 30-1045.13; Ord. No. 2006-259-262, § 1, 10-23-2006; Ord. No. 2015-148-158, § 1, 7-27-2015)

Sec. 30-1045.14. Violation of conditions.

(a) Upon noting that a condition of a conditional use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner which condition has been violated, the nature of the violation, and that the Planning Commission shall hold a public hearing at which it shall review the violation and the conditional use permit pursuant to this division if:

(1) The property owner does not abate the violation within 30 days of the issuance of the notice; or

(2) Three notices of violation are issued to the property owner within any 12-month period.

(b) A notice of violation shall run with the permit upon which the notice is issued if the permit is transferred. If property subject to a conditional use permit has been legally divided into more than one parcel prior to the issuance of a notice of violation, the notice of violation accrued by one parcel shall not count against the other parcels.

(Code 2004, § 114-1045.14; Code 2015, § 30-1045.14; Ord. No. 2011-29-150, § 11, 9-12-2011)

Sec. 30-1045.15. Review; procedure on appeal.

(a) The Zoning Administrator shall issue to the property owner a notice advising that the Planning Commission shall hold a public hearing at which it shall review the violation and the conditional use permit pursuant to this division if:

(1) The property owner has not abated a violation within 30 days of the issuance of a notice of violation under Section 30-1045.14; or

(2) Three notices of violation have been issued to the property owner within any 12-month period.

(b) This notice shall also inform the property owner that the City Council shall make the final determination

as to whether it shall revoke the conditional use permit, allow the conditional use permit to remain in effect, or amend the conditional use permit.

(Code 2004, § 114-1045.15; Code 2015, § 30-1045.15; Ord. No. 2011-29-150, § 11, 9-12-2011)

Sec. 30-1045.16. Notice and public hearings.

(a) Notice of the time, place, and subject of all public hearings before the Planning Commission and the City Council regarding the violation of one or more conditional use permit conditions shall be given in accordance with the Charter and applicable State law.

(b) The Planning Commission shall hold a public hearing at which it shall review the violation and the conditional use permit. After the public hearing, the Planning Commission shall issue to the City Council a recommendation regarding whether the City Council should revoke the conditional use permit, allow the conditional use permit to remain in effect, or amend the conditional use permit and suggesting appropriate conditions if recommending an amendment of the permit.

(Code 2004, § 114-1045.16; Code 2015, § 30-1045.16; Ord. No. 2011-29-150, § 11, 9-12-2011)

Sec. 30-1045.17. City Council action.

(a) Upon issuance of the recommendation of the Planning Commission regarding a conditional use permit, the Secretary of the Planning Commission shall cause appropriate ordinances to be prepared so that the City Council may act on the Planning Commission's recommendations.

(b) Following a public hearing on the review of the conditional use permit, the City Council may:

(1) Revoke the conditional use permit;

(2) Allow the conditional use permit to remain in effect; or

(3) Amend the conditional use permit.

(c) Notwithstanding any section of this division to the contrary, no action taken pursuant to this division shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner.

(Code 2004, § 114-1045.17; Code 2015, § 30-1045.17; Ord. No. 2011-29-150, § 11, 9-12-2011)

Sec. 30-1045.18. Applicability of Sections 30-1045.14 through 30-1045.17.

Sections 30-1045.14 through 30-1045.17 shall apply only to all conditional use permits adopted after the effective date of the ordinance from which such sections are derived.

(Code 2004, § 114-1045.18; Code 2015, § 30-1045.18; Ord. No. 2011-29-150, § 11, 9-12-2011)

DIVISION 6. SPECIAL USE PERMITS

Sec. 30-1050.1. Issuance.

Pursuant to Section 17.11 of the Charter and in accordance with the requirements set forth therein, the City Council may authorize the use of land, buildings and structures which do not conform to the regulations and restrictions prescribed for the district in which they are situated and may authorize the issuance of special use permits therefor to the owners of fee simple title thereto and their successors in fee simple title, whenever the Council finds that the proposed use will not:

(1) Be detrimental to the safety, health, morals and general welfare of the community involved.

(2) Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.

(3) Create hazards from fire, panic or other dangers.

(4) Tend to overcrowding of land and cause an undue concentration of population.

(5) Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.

(6) Interfere with adequate light and air.

(Code 1993, § 32-1050.1; Code 2004, § 114-1050.1; Code 2015, § 30-1050.1)

Sec. 30-1050.2. Applications.

Applications for special use permits shall be filed in the Office of the Department of Planning and Development Review and shall be accompanied by such plans and other data as shall be required by written policy established by the Director of the Department.

(Code 1993, § 32-1050.2; Code 2004, § 114-1050.2; Code 2015, § 30-1050.2; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1050.3. Notice and public hearing by Planning Commission.

The Planning Commission shall hold a public hearing on any ordinance to authorize the issuance of a special use permit. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City.

(Code 1993, § 32-1050.3; Code 2004, § 114-1050.3; Code 2015, § 30-1050.3; Ord. No. 2019-085, § 2, 4-22-2019)

Sec. 30-1050.4. Notice and public hearing by City Council.

The City Council shall hold a public hearing on the ordinance to authorize the issuance of a special use permit. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City.

(Code 1993, § 32-1050.4; Code 2004, § 114-1050.4; Code 2015, § 30-1050.4; Ord. No. 2019-085, § 2, 4-22-2019)

Sec. 30-1050.5. Posting of notice on property.

In the case of each application for a special use permit or amendment to a special use permit, it shall be the responsibility of the Department of Planning and Development Review to post on the property that is the subject of the special use permit, a sign or signs notifying interested parties of the application and pending public hearings thereon. Such sign(s) (i) shall be posted at least 15 days prior to the scheduled Planning Commission public hearing on the application, (ii) shall remain on the property until final disposition of the application by the City Council, and (iii) shall comply with any applicable standards established by the Department of Planning and Development Review and approved by resolution of the Planning Commission.

(Code 2004, § 114-1050.5; Code 2015, § 30-1050.5; Ord. No. 2006-259-262, § 1, 10-23-2006; Ord. No. 2015-148-158, § 1, 7-27-2015)

Sec. 30-1050.6. Filing fees.

(a) A fee as set forth below shall accompany each special use permit application, which shall be paid into the City treasury.

(1)	Day nursery	$300.00
(2)	Single- or two-family detached or attached dwelling	$300.00
(3)	Outdoor dining	$300.00
(4)	Mobile food business	$300.00
(5)	Multifamily dwelling (three to ten units)	$1,800.00
(6)	Commercial or industrial use equal to or less than 5,000 square feet	$1,800.00
(7)	Multifamily dwelling (more than ten units)	$2,400.00
(8)	Commercial or industrial use greater than 5,000 square feet	$2,400.00
(9)	Signs	$300.00

(b) A fee shall accompany each application for an amendment to a special use permit pertaining to a change in the text only of the originally approved special use permit or amendment thereto, and a fee in the same amount shall accompany each application for an amendment to a special use permit pertaining to a change in the text and plans of the originally approved special use permit or amendment thereto, which shall be paid into the City treasury. Such fees shall be as follows:

(1)	Day nursery	$200.00
(2)	Single- or two-family detached or attached dwelling	$200.00
(3)	Outdoor dining	$200.00
(4)	Mobile food business	$200.00
(5)	Multifamily dwelling (three to ten units)	$1,200.00
(6)	Commercial or industrial use equal to or less than 5,000 square feet	$1,200.00
(7)	Multifamily dwelling (more than ten units)	$1,800.00
(8)	Commercial or industrial use greater than 5,000 square feet	$1,800.00
(9)	Signs	$200.00

(c) There shall be no requirement for payment of an application fee if the purpose of a special use permit application is to have the City Council authorize continuation of an existing use which the Zoning Administrator determines should not be allowed under this chapter; provided, however, that such special use application must be for continuation of a use for which either a building permit or certificate of use and occupancy was previously issued.

(d) There shall be no charge for the first continuance requested by the applicant. A fee of $250.00 shall accompany each subsequent continuance requested by the applicant, which fee shall be paid into the City treasury. There shall be no charge for a continuance requested by the Planning Commission.

(e) A permit implementing the granting of a special use permit or an amendment to a special use permit shall not be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 1993, § 32-1050.6; Code 2004, § 114-1050.6; Code 2015, § 30-1050.6; Ord. No. 2007-54-121, § 1, 5-29-2007; Ord. No. 2010-237-2011-16, § 1, 1-24-2011; Ord. No. 2014-260-2015-10, § 1, 1-12-2015; Ord. No. 2018-209, § 5, 9-10-2018)

Sec. 30-1050.7. Violation of conditions.

(a) Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner which condition has been violated, the nature of the violation, and that the Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to this division if:

(1) The property owner does not abate the violation within 30 days of the issuance of the notice; or

(2) Three notices of violation are issued to the property owner within any 12-month period.

(b) A notice of violation shall run with the permit upon which the notice is issued if the permit is transferred. If property subject to a special use permit has been legally divided into more than one parcel prior to the issuance of a notice of violation, the notice of violation accrued by one parcel shall not count against the other parcels.

(Code 1993, § 32-1050.7; Code 2004, § 114-1050.7; Code 2015, § 30-1050.7)

Sec. 30-1050.8. Review; procedure on appeal.

(a) The Zoning Administrator shall issue to the property owner a notice advising that the Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to this division if:

(1) The property owner has not abated a violation within 30 days of the issuance of a notice of violation under Section 30-1050.7; or

(2) Three notices of violation have been issued to the property owner within any 12-month period.

(b) This notice shall also inform the property owner that City Council shall make the final determination as to whether it shall revoke the special use permit, allow the special use permit to remain in effect, or amend the special use permit.

(Code 1993, § 32-1050.8; Code 2004, § 114-1050.8; Code 2015, § 30-1050.8)

Sec. 30-1050.9. Notice and public hearings.

(a) Notice of the time, place, and subject of all public hearings before the Planning Commission and the City Council regarding the violation of one or more special use permit conditions shall be given in accordance with the Charter and applicable State law.

(b) The Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit. After the public hearing, the Planning Commission shall issue to the City Council a recommendation regarding whether the City Council should revoke the special use permit, allow the special use permit to remain in effect, or amend the special use permit and suggesting appropriate conditions if recommending an amendment of the permit.

(Code 1993, § 32-1050.9; Code 2004, § 114-1050.9; Code 2015, § 30-1050.9)

Sec. 30-1050.10. City Council action.

(a) Upon issuance of the recommendation of the Planning Commission regarding a special use permit, the Secretary of the Planning Commission shall cause appropriate ordinances to be prepared so that the City Council may act on the Planning Commission's recommendations. Following a public hearing on the review of the special use permit, the City Council may:

(1) Revoke the special use permit;

(2) Allow the special use permit to remain in effect; or

(3) Amend the special use permit.

(b) Notwithstanding any section of this division to the contrary, no action taken pursuant to this division shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner.

(Code 1993, § 32-1050.10; Code 2004, § 114-1050.10; Code 2015, § 30-1050.10)

Sec. 30-1050.11. Applicability of Sections 30-1050.7 through 30-1050.10.

Sections 30-1050.7 through 30-1050.10 shall apply only to all special use permits adopted after the effective date of the ordinance from which such sections are derived.

(Code 1993, § 32-1050.11; Code 2004, § 114-1050.11; Code 2015, § 30-1050.11)

DIVISION 7. SITE IMPROVEMENT REQUIREMENTS

Sec. 30-1060. Conditions for issuance of permit for erection of building or structure; installation of plumbing fixtures.

For the purpose of promoting and preserving public health, safety, welfare and convenience, the Commissioner of Buildings shall issue a permit for the erection of a building or structure in which plumbing fixtures are to be installed only under the following conditions:

(1) *Site improvements existing.* When all required site improvements are available as certified by the following:

a. The Director of Public Works as to the following:

1. A street consisting of a single roadway or the portion of the street consisting of more than a single roadway, in front or at the side of the lot upon which the building or structure is to

erected, embraces a roadway contiguous thereto that has a surface which, in the Director of Public Works' opinion, is reasonably suitable for travel during all weather of the locality.

2. A stormwater sewer, drain or other drainage facility adequate to provide proper drainage for the locality is adjacent to such lot.

3. An alley of such width, grade and surface as is prescribed by the City's standard alley specifications abuts the lot on the rear or side, except that this shall not apply when no dedicated and public alley exists or when the Director of Public Works is satisfied that, due to topography or other exceptional situation, improvement of such alley would serve no public purpose.

4. A sanitary sewer is adjacent to such lot either on the front, rear or side thereof to which it is practicable to connect with the sewage disposal facilities in the building or structure or when the owner of the lot satisfies the District Health Director and Director of Public Works that another sanitary sewage disposal system can and will be provided for the disposal of sanitary sewage originating in the building or structure and such system will be so used for that purpose and the District Health Director and Director of Public Works shall certify such facts to the Commissioner of Buildings.

b. The Director of Public Utilities as to the following: a water main adjacent to such lot either in the front, rear or side thereof, to which it is practicable to connect the water supply facilities in the building or structure or when the owner of the lot satisfies the District Health Director and Director of Public Utilities that another safe water supply can and will be so used therein and the District Health Director and Director of Public Utilities shall certify such facts to the Commissioner of Buildings.

(2) *Site improvements do not exist.* Conditions if site improvements do not exist are as follows:

a. *Residential development.* When the Director of Public Utilities or District Health Director certifies as to water supply, the Director of Public Works or District Health Director certifies as to sanitary sewage disposal system and the Director of Public Works certifies as to paved streets, paved alleys and stormwater sewers, drains or other drainage facilities that such site improvements are being provided and that the cost of such improvements are being borne as provided in the City Subdivision Regulations (Chapter 25).

b. *Commercial or industrial development.* When the Director of Public Works, as to the extension of streets, sanitary sewers, stormwater sewers, drains or other drainage facilities, and the Director of Public Utilities, as to the extension of water mains, certify that such are being provided by the owner or that, with the approval of the Chief Administrative Officer, the City will make such extensions and improvements or any portion of them at the entire cost and expense of the City, provided:

1. Funds for such extensions and improvements are available for the purpose.

2. The owner enters into a written contract with the City that, in consideration of making the extensions and improvement, the owner will:

i. Apply to the Commissioner of Buildings for a permit for the erection of each building or structure within 30 days from the date of the contract;

ii. Commence the construction of the building proposed to be erected within six months from the date the building permit is issued;

iii. Complete the erection thereof with all reasonable dispatch, in any event within three years from the day such contract is entered into; and

iv. Upon the failure, refusal or neglect of the owner to comply with subsection (2)b.2.i, (2)b.2.ii or (2)b.2.iii of this section, pay to the City all costs and expenses incurred in making such extensions and improvements.

(Code 1993, § 32-1060; Code 2004, § 114-1060; Code 2015, § 30-1060; Ord. No. 2004-360-330, § 1, 12-13-2004)

DIVISION 8. COVENANTS AND CONDITIONS CONTAINED IN DEEDS, CONTRACTS AND AGREEMENTS

Sec. 30-1070. Effect.

The sections of this chapter or the application thereof shall not be construed to affect, interfere with or abrogate any covenant, condition, limitation or restriction contained in any deed, contract or agreement, whether recorded or otherwise, relating to the use of any land, building or structure. Whenever the sections of this chapter or the application thereof impose greater restrictions upon the use of land, buildings or structures than are imposed by any such covenants, conditions, limitations or restrictions, the sections of this chapter or the application thereof shall govern the use of such land, buildings or structures.

(Code 1993, § 32-1070; Code 2004, § 114-1070; Code 2015, § 30-1070)

DIVISION 9. VIOLATIONS AND PENALTIES

Sec. 30-1080. Unlawful conduct and penalties.

It shall be unlawful for the owner of any land, building, structure or premises or the agent thereof having possession or control of such property or for any lessee, tenant, architect, engineer, builder, contractor or any other person to violate any section of this chapter or of any ordinance authorizing the issuance of a conditional use permit, a special use permit or community unit plan or the conditions attached thereto or to fail, refuse or neglect to perform any duty imposed by this chapter. It shall be unlawful for any such owner, agent, lessee, tenant, architect, engineer, builder, contractor or other person to take part in or to assist in any such violation, failure, refusal or neglect or to maintain any land, building or structure in connection with which such violation, failure, refusal or neglect exists. Any such violation shall be a misdemeanor punishable by a fine of not more than $1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,000.00; any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than $100.00 nor more than $1,500.00 and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not more than $2,000.00. In addition to or in lieu of any fine, any violation of this chapter shall also be punishable by confinement to jail for a period not to exceed 12 months. However, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family dwellings shall be punishable by a fine of up to $2,000.00. Failure to abate the violation within the specified time period shall be punishable by a fine of up to $5,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of up to $7,500.00. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with the Virginia Residential Landlord and Tenant Act, § 55.1-1200 et seq., as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term. The City shall also impose an administrative fee of $100.00 on any violator to cover the costs arising out of an enforcement action.

(Code 1993, § 32-1080; Code 2004, § 114-1080; Code 2015, § 30-1080; Ord. No. 2020-171, § 1(30-1080), 9-28-2020)

ARTICLE XI. AMENDMENTS

DIVISION 1. GENERALLY

Sec. 30-1100. Authority of Council.

Subject to the requirements of the Charter and this article, the Council may, from time to time, after receiving the recommendation of the Planning Commission, amend, supplement or repeal the regulations and restrictions and the boundaries of the districts established by this chapter.

(Code 1993, § 32-1100; Code 2004, § 114-1100; Code 2015, § 30-1100)

Sec. 30-1110. Initiation.

Amendment, supplementation or repeal of the regulations and restrictions and the boundaries of the districts established by this chapter may be initiated by the Council or any member thereof, by motion of the Planning Commission, by request of the Mayor, the Chief Administrative Officer or any City agency or by petition of any individual. Such petition, addressed to the Council, shall be reviewed by the Director of Planning and Development Review and shall be filed with the City Clerk.

(Code 1993, § 32-1110; Code 2004, § 114-1110; Code 2015, § 30-1110; Ord. No. 2004-360-330, § 1, 12-13-2004; Ord. No. 2009-221-2010-9, § 1, 1-25-2010)

Sec. 30-1120. Notice and public hearing by Planning Commission.

The Planning Commission shall hold a public hearing on any ordinance to amend, supplement or repeal the sections of this chapter or the boundaries of the districts established by this chapter. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City.

(Code 1993, § 32-1120; Code 2004, § 114-1120; Code 2015, § 30-1120; Ord. No. 2019-085, § 2, 4-22-2019)

Sec. 30-1130. Notice and public hearing by Council.

The City Council shall hold a public hearing on the ordinance to amend, supplement or repeal the sections of this chapter or the boundaries of the districts established by this chapter. Notice of the time and place of such public hearing shall be given in accordance with general law. The names and addresses of all property owners within the City to whom notices are to be sent shall be furnished by the City Assessor and shall be as shown on the then-current tax records of the City.

(Code 1993, § 32-1130; Code 2004, § 114-1130; Code 2015, § 30-1130; Ord. No. 2019-085, § 2, 4-22-2019)

Sec. 30-1140. Posting of notice on property.

In the case of each application for a change in the boundaries of a zoning district, it shall be the responsibility of the Department of Planning and Development Review to post on the property that is the subject of such change, a sign or signs notifying interested parties of the application and pending public hearings thereon. Such sign(s) (i) shall be posted at least 15 days prior to the scheduled Planning Commission public hearing on the application, (ii) shall remain on the property until final disposition of the application by the City Council, and (iii) shall comply with any applicable standards established by the Department of Planning and Development Review and approved by resolution of the Planning Commission.

(Code 2004, § 114-1140; Code 2015, § 30-1140; Ord. No. 2006-259-262, § 1, 10-23-2006; Ord. No. 2015-148-158, § 1, 7-27-2015)

Sec. 30-1150. Effect of protest by property owners.

If a protest is filed with the City Clerk against an amendment, supplement or repeal of the sections of this chapter, signed and acknowledged before a person authorized to administer oaths, by the owners of 20 percent or more of the total area of the lots included in such proposed change or of the total area of the lots outside of the proposed change, any point in which is within 150 feet of the boundary of such area, the Council shall not adopt the ordinance making such amendment, supplement or repeal by less than seven affirmative votes.

(Code 1993, § 32-1150; Code 2004, § 114-1150; Code 2015, § 30-1150)

Sec. 30-1160. Fee.

(a) A petition for amendment, supplementation or repeal of the regulations and restrictions and the boundaries of the districts established by this chapter shall be accompanied by a fee of $1,500.00 plus $100.00 per acre, which shall be paid into the City treasury. A fee of $250.00 shall accompany each continuance of a rezoning caused by the applicant.

(b) Approval of a change in the boundaries of the districts established by this chapter shall not be granted until satisfactory evidence has been presented to the Secretary of the Planning Commission that any delinquent real estate taxes applicable to the subject property have been paid.

(Code 1993, § 32-1160; Code 2004, § 114-1160; Code 2015, § 30-1160; Ord. No. 2007-54-121, § 1, 5-29-2007; Ord. No. 2010-237-2011-16, § 1, 1-24-2011; Ord. No. 2014-260-2015-10, § 1, 1-12-2015)

DIVISION 2. CONDITIONAL ZONING

Sec. 30-1170.1. Purpose.

(a) Pursuant to applicable provisions of Code of Virginia, §§ 15.2-2296 and 15.2-2298, the purpose of conditional zoning is to recognize that frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change.

(b) It is, therefore, the purpose of this division to provide a more flexible and adaptable zoning method to cope with such situations through conditional zoning, whereby a change in the zoning classification of property may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. It is the intent of the City Council that this division shall not be used for the purpose of discrimination in housing.

(Code 1993, § 32-1170.1; Code 2004, § 114-1170.1; Code 2015, § 30-1170.1)

Sec. 30-1170.2. Procedures.

(a) *Proffered conditions.* In conjunction with an application for rezoning of property and as a part of a proposed amendment to the zoning map as described in Division 1 of this article, the owner of such property may voluntarily proffer in writing reasonable conditions in addition to the regulations specified for the zoning district by this chapter, provided such conditions meet the criteria set forth in this division.

(b) *Submission of conditions.* The owner may submit such conditions at the time of application for rezoning or at any other time prior to introduction of an ordinance to rezone the subject property. The Planning Commission and the City Council shall not be obligated to accept any of the proffered conditions.

(c) *Additions, deletions or modifications to conditions.* If additions, deletions or other modifications to conditions are desired by the owner of the property that is the subject of the rezoning request, they shall be made in writing to the Planning Commission before the Commission makes its recommendation to the City Council. The City Council may consider additional conditions, deletions or modifications to conditions after the Planning Commission makes its recommendation, provided that such are voluntarily proffered in writing prior to the public hearing at which the City Council is to consider the application for rezoning. When additions, deletions or modifications to conditions are proposed after the Planning Commission makes its recommendation, the City Council may refer the rezoning application back to the Commission for further review and action, provided that, where such additions, deletions or modifications to conditions are less restrictive than the conditions considered by the Planning Commission, the City Council shall refer the rezoning application back to the Commission.

(Code 1993, § 32-1170.2; Code 2004, § 114-1170.2; Code 2015, § 30-1170.2; Ord. No. 2004-350-328, § 1, 12-13-2004; Ord. No. 2007-43-56, § 1, 3-26-2007)

Sec. 30-1170.3. Proffered conditions.

(a) *Criteria.* All conditions proffered pursuant to this division shall meet the following criteria:

(1) The rezoning itself must give rise to the need for the conditions.

(2) The conditions shall have a reasonable relation to the rezoning.

(3) The conditions shall be in conformity with the master plan for the City.

(4) The conditions shall not impose upon the applicant the requirement to create a property owners' association under the Property Owner's Association Act, Code of Virginia, § 55-508 et seq., which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the City.

(5) The conditions shall not be less restrictive than the sections of this chapter and shall not require or permit a standard that is less than required by any applicable law.

(6) The conditions shall be drafted in such manner as to be clearly understandable and enforceable.

(b) *Conditions involving dedication of real property or payment of cash.* If proffered conditions include the dedication of real property or the payment of cash, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash is tendered are included in the capital improvement program, provided the City Council may accept proffered conditions which are not normally included in the capital improvement program. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of the property or cash payment if the property or cash payment is not used for the purpose for which proffered.

(c) *Reasonable conditions designated.* Reasonable conditions may include the payment of cash for any off-site road improvement or any off-site transportation improvement that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program, provided that nothing herein shall prevent the City from accepting proffered conditions which are not normally included in a capital improvement program. For purposes of this section, the term "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, the term "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

(Code 1993, § 32-1170.3; Code 2004, § 114-1170.3; Code 2015, § 30-1170.3)

State law reference—Additional conditions, Code of Virginia, § 15.2-2298.

Sec. 30-1170.4. Subsequent amendment to zoning map.

Once proffered and accepted as part of an amendment to the zoning map, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions, provided that the conditions shall continue in effect if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(Code 1993, § 32-1170.4; Code 2004, § 114-1170.4; Code 2015, § 30-1170.4)

Sec. 30-1170.5. Future amendments for certain proffers.

If conditions proffered pursuant to this division include a requirement for the dedication of real property of substantial value or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, no amendment to the zoning map for the property subject to such conditions nor the conditions themselves nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the City Council, which eliminate or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to the property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

(Code 1993, § 32-1170.5; Code 2004, § 114-1170.5; Code 2015, § 30-1170.5)

Sec. 30-1170.6. Enforcement and guarantees.

(a) *Authority of Zoning Administrator.* The Zoning Administrator shall be vested with all necessary authority on behalf of the City Council to administer and enforce conditions attached to a rezoning or amendment to the zoning map, including the following:

(1) The ordering in writing of the remedy of any noncompliance with conditions;

(2) The bringing of legal action to ensure compliance with conditions, including injunction, abatement or

other appropriate action or proceeding; and

(3) Requiring a guarantee satisfactory to the City Council in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the City Council or its agent upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

(b) *Denial of permits and approvals.* Failure to meet all conditions attached to an amendment to the zoning map shall constitute cause to deny approval or issuance of any required plan of development, certificate of zoning compliance, building permit, or certificate of use and occupancy, as may be appropriate.

(Code 1993, § 32-1170.6; Code 2004, § 114-1170.6; Code 2015, § 30-1170.6)

Sec. 30-1170.7. Records and index.

The zoning map shall show, by an appropriate symbol on the map, the existence of conditions attached to the zoning. The Zoning Administrator shall keep in the Administrator's Office and make available for public inspection a conditional zoning index. The index shall provide ready access to each ordinance creating conditions, in addition to the regulations provided for in a particular zoning district.

(Code 1993, § 32-1170.7; Code 2004, § 114-1170.7; Code 2015, § 30-1170.7)

Sec. 30-1170.8. Review of Zoning Administrator's decision.

(a) Any rezoning applicant or any other person who is aggrieved by a decision of the Zoning Administrator made pursuant to Section 30-1170.6 may petition the City Council for review of such decision by filing a petition with the Zoning Administrator and with the City Clerk within 30 days of the decision. Such petition shall specify the grounds upon which the petitioner is aggrieved.

(b) The City Council shall review the appealed decision using the same process as the Zoning Administrator, but shall not be bound by the Zoning Administrator's conclusions or findings. However, the City Council shall not modify or delete any condition attached to a zoning map amendment except by a formal amendment made pursuant to the provisions of this article.

(c) A fee of $400.00 shall accompany each petition for City Council review, which fee shall be paid into the City treasury.

(d) An aggrieved party may petition the circuit court for review of the decision of the City Council on an appeal taken pursuant to this section.

(Code 1993, § 32-1170.8; Code 2004, § 114-1170.8; Code 2015, § 30-1170.8)

State law reference—Review of decisions of Zoning Administrator, Code of Virginia, § 15.2-2301.

Sec. 30-1170.9. Amendments and variations of conditions.

Amendments and variations of conditions attached to a zoning map amendment shall be made only after public notice and hearing in the same manner as an original zoning map amendment and in accordance with this article and applicable sections of State law.

(Code 1993, § 32-1170.9; Code 2004, § 114-1170.9; Code 2015, § 30-1170.9)

ARTICLE XII. DEFINITIONS

Sec. 30-1200. Applicability of article.

For the purposes of this chapter, certain words or terms used in this chapter shall be interpreted as set forth in this article, unless otherwise specifically prescribed elsewhere in this chapter. Words and terms not defined in this article shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

(Code 1993, § 32-1200; Code 2004, § 114-1200; Code 2015, § 30-1200)

Sec. 30-1210. General rules of interpretation.

(a) For the purposes of this chapter, general rules of interpretation shall be as follows:

(1) The word "shall" is mandatory, and the word "may" is permissive.

(2) The singular number includes the plural, and the plural number includes the singular.

(3) The present tense includes the future tense.

(4) The word "building" includes the word "structure."

(5) The word "land" includes the words "water" and "marsh."

(6) The word "used" or "occupied" includes the words "intended, designed or arranged to be used or occupied."

(b) Figures and drawings contained in this chapter are for the purpose of illustration. If a discrepancy exists between such illustration and the text of this chapter, the text shall control.

(Code 1993, § 32-1210; Code 2004, § 114-1210; Code 2015, § 30-1210)

Sec. 30-1220. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

.1 *Accessory structure* and *accessory building* mean a structure or building used for purposes incident and subordinate to the principal use of the premises.

.2 *Accessory use* means a use of land or use of a structure or building for purposes incident and subordinate to the principal use of the premises.

.3 *Adult bookstore* means a commercial establishment which offers for sale, rental or viewing for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, when one or more of the following criteria apply:

(1) In any one month, 25 percent or more of the gross income of the establishment is derived from the sale, rental or viewing of such materials;

(2) Twenty-five percent or more of the floor area of the premises is devoted to the display or storage of such materials; or

(3) Twenty-five percent of the stock in trade of the establishment is comprised of such materials.

.4 *Adult care residence* means any place, establishment, institution or portion thereof operated or maintained as a residence providing for the maintenance or care of four or more adults who are aged, infirm or disabled and which is licensed by the Commonwealth as an adult care residence.

.5 *Adult day care facility* means a facility which provides supplementary care and protection during a part of the day only to four or more aged, infirm or disabled adults who reside elsewhere, except a facility or portion of a facility licensed by the State Board of Health or Department of Mental Health, Mental Retardation and Substance Abuse Services.

.6 *Adult entertainment establishment* means a restaurant, nightclub, private club or similar establishment which features, on a regular basis, live performances involving persons who are seminude. For the purposes of this definition, the term "seminude" means:

(1) Less than completely and opaquely covered pubic region, buttocks, or female breasts below a point immediately above the top of the areolae, excepting any portion of the cleavage of the female breast exhibited by a dress, shirt, leotard, bathing suit or other wearing apparel provided the areolae are not exposed, but under no circumstances less than completely covered genitals, anus, or areolae of the female breast.

(2) Male genitals in a state of arousal even if completely and opaquely covered. Any establishment which features such performances more than one day in a 30-day period shall be deemed to be an adult entertainment establishment. The restrictions in this definition shall not apply to a legitimate theatrical performance where nudity or seminudity is only incidental to the primary purpose of the performance.

.7 *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films (which term shall also include videotapes and other comparable technology) containing specified sexual activities or specified anatomical areas (sexually oriented films) are predominantly shown or where a predominant number of films are limited to adults only. For the purposes of this definition, sexually oriented films will be deemed predominantly shown if they are shown more frequently than other, nonsexually oriented films or if there is regularly greater audience attendance at such films than at other, nonsexually oriented films. A finding by the Zoning Administrator that sexually oriented films predominate or that a predominant number of films are restricted to adults shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clear and convincing evidence.

.8 *Alley* means a public way affording or intended to afford secondary means of vehicular access to abutting properties.

.9 *Amusement center* means a building, portion of a building or area outside of a building, where four or more video game machines, pinball machines, pool or billiard tables or other similar player-operated amusement devices or any combination of four or more such devices are maintained for use by the public.

.10 *Area devoted to parking* means that portion of a lot which is improved for purposes of a principal or accessory parking area or parking lot and related vehicle circulation and including all parking spaces, access aisles, driveways, loading areas and vehicle stacking areas or maneuvering space.

.11 *Automated teller machine* means a computerized electronic machine that performs basic banking functions such as handling deposits, transferring funds or issuing cash withdrawals; also known as an ATM or automatic teller machine.

.12 *Auto service center* means an establishment for the servicing and minor repair of motor vehicles within enclosed service bays or stalls and which may include the dispensing of motor fuels and related products at retail and the sale of minor automobile parts and accessories such as tires, batteries, sparkplugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items. An auto service center shall not include any establishment engaging in general auto or truck repair; body repair or painting; welding; frame straightening; tire recapping or vulcanizing; storage of wrecked vehicles; or any operation involving the installation or removal of engines, cylinder heads, crankcases, radiators, transmissions, differentials, fenders, doors, bumpers or other major body or mechanical parts.

.12:1 *Awning* means a permanent or retractable architectural projection, typically constructed using a lightweight frame structure over which a cloth or similar non-structural covering is attached, providing a light roof-like structure over door entrances or windows that provides sun and weather protection, identity, or decoration and is wholly supported by the exterior façade of the building to which it is attached.

.13 *Bicycle rack* means a structure to which the frame and both wheels of a bicycle can be securely attached.

.14 *Block* means all of the property located along one side of a street between two intersecting streets or between any combination of intersecting streets, railroad rights-of-way, watercourses or other features or natural barriers which permanently interrupt the continuity of development.

.15 *Block, entire,* means all of the property lying within an area bounded entirely by streets or by any combination of streets, railroad rights-of-way, watercourses or other features or natural barriers which permanently interrupt the continuity of development.

.15:1 *Booking transaction* means any transaction in which there is a charge to one or more short-term renters by a short-term rental operator in exchange for the occupancy of a short-term rental.

.16 *Building* means a structure having a roof and intended for the shelter or enclosure of persons or chattels and which is enclosed within exterior walls or which, if a structure is used or occupied for nondwelling purposes, is enclosed within exterior walls, party walls or other permanent wall separation having no ingress or egress through

or to another such structure.

.17 *Building area* means the horizontal area of a lot covered by enclosed building space as measured from exterior faces of exterior walls of each building on the lot.

.18 *Building, completely enclosed,* means a building having no outside openings other than ordinary doors, windows and ventilators.

.19 *Building, height of,* means the vertical distance from mean grade level to the highest point of a flat roof; to the deck line or highest point of the coping of a mansard roof; or to the mean height level between the eaves and the ridge of a gable, hip, shed or gambrel roof.

.20 *Building, main,* means a building occupied by a principal use.

.20:1 *Canopy* means a permanent or architectural projection typically of rigid construction over which a structural covering is attached, providing a roof-like structure generally over door entrances, outdoor dining or service areas that provides sun and weather protection, identity or decoration structurally supported by the exterior façade of the building to which it is attached.

.21 *Clinic* means a facility providing health services for persons on an outpatient basis and where no patients are lodged overnight.

.22 *Court, inner,* means an uncovered open space, other than a yard, surrounded on all sides by the exterior walls of a structure.

.23 *Court, outer,* means an uncovered open space, other than a yard, surrounded on three sides by the exterior walls of a structure. Where the fourth or open side of a court is enclosed by projections exceeding 25 percent of its width, such court shall be considered an inner court.

.24 *Day nursery* means a facility for the care of more than five children while separated from their parents for a portion of the day, not including children of a family residing on the premises.

.25 *Development site* means all of the land developed or to be developed for single-family attached dwellings or mixed-use development and related accessory uses and structures, when such land is contiguous and planned and developed as a unit. For single-family attached dwellings, the development site shall include individual attached dwelling lots, open spaces, private streets, parking areas, community buildings and other uses, structures and areas owned or to be owned in common by owners of individual lots within the development.

.26 *Drive-up facility* means any principal use or facility accessory to a principal use where service is rendered to or business is transacted directly with customers located in a motor vehicle.

.27 *Dwelling, multifamily,* means a building containing three or more dwelling units.

.28 *Dwelling, single-family attached,* means a building which contains only one dwelling unit and which is attached by means of party walls to another main building, each of which is located on an individual lot of record.

.29 *Dwelling, single-family detached,* means a building completely separated from any other main building and containing only one dwelling unit.

.30 *Dwelling, two-family,* means a building containing two dwelling units, and consisting of either of the following:

(1) *Dwelling, two-family attached,* means a two-family dwelling which is attached by means of a party wall to another main building, each of which is located on an individual lot of record.

(2) *Dwelling, two-family detached,* means a two-family dwelling which is completely separated from any other main building.

.31 *Dwelling unit* means a room or group of rooms within a building constituting a separate and independent unit occupied or intended for occupancy by one family and containing one kitchen and provisions for living, sleeping, eating and sanitation, all of which are generally accessible to all occupants of the unit, and which is not available for occupancy for periods of less than one month.

.32 *Dwelling use* means any of the following principal uses: single-family detached dwelling, single-family attached dwelling, two-family dwelling, multifamily dwelling, nursing home, adult care residence, group home,

lodginghouse, fraternity or sorority house; and includes any dwelling unit contained within the same building as other permitted principal uses.

.33 *Family* shall consist of persons living together as a single housekeeping unit and shall include any of the following:

(1) One or more persons related by blood, marriage, legal guardianship or adoption, including foster children;

(2) Not more than three unrelated persons or a combination of related and unrelated persons;

(3) Two unrelated adults plus children related to one or both adults by blood, marriage, legal guardianship or adoption, including foster children;

(4) Not more than eight unrelated mentally ill, intellectual disability, or developmentally disabled persons, with one or more resident counselors or other staff persons, occupying a single dwelling unit or other residential facility for which the Department of Behavioral Health and Developmental Services of the Commonwealth is the licensing authority pursuant to the Code of Virginia, shall be considered a family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401;

(5) Not more than eight handicapped persons, as defined by the Federal Fair Housing Act, occupying a single dwelling unit, and in addition thereto may include one or more resident counselors or other staff persons.

The term "family" shall not be construed to include a fraternity, sorority, club or a group of persons occupying a hotel, motel, tourist home, lodginghouse, group home, adult care residence, nursing home, shelter or institution of any kind, except as specifically included by this definition.

.34 *Flea market* means an activity conducted outside an enclosed building and which involves the retail sale of new or used merchandise by one or more vendors operating from stalls, stands, vehicles or other spaces which are rented or otherwise made available to such vendors. The term does not include outdoor display or sales of a single food or beverage vendor, operated as an incidental part of retail activity regularly conducted from within a permanent building on the premises; nor does it include the sale of merchandise as part of a permitted festival or other similar special event, temporary in duration, at which the display and sale of merchandise are incidental to the primary cultural, charitable, informational or recreational activity of such festival or special event. A flea market shall not be considered a permitted accessory use to an activity of similar nature conducted in an enclosed building or to any other principal use in any zoning district.

.35 *Floor area* means the sum of the horizontal areas of enclosed building space on all floors of all buildings on a lot measured from the exterior face of exterior walls and including intervening partitions, halls, lobbies, stairways and elevator shafts. The following shall be excluded from calculation of floor area:

(1) Open exterior balconies and other unenclosed spaces.

(2) Uncovered terraces, patios, porches, or steps.

(3) Garages, carports or other areas, enclosed or unenclosed, used for the parking or circulation of motor vehicles.

(4) Areas for housing major mechanical equipment which serves the building as a whole or major portion thereof, but not including utility areas within individual dwelling units.

(5) Areas for common special purpose use by occupants of the premises, including laundries, recreation areas, sitting areas and libraries in buildings devoted to dwelling use, and storage areas, and areas devoted exclusively to management and/or maintenance of the premises in buildings devoted to any use, but not including incidental commercial activities in any case.

.36 *Floor area ratio (FAR)* means the total square foot amount of floor area on a lot for each square foot of land area. Floor area ratio is determined by dividing the floor area on a lot by the land area attributed to the lot.

.37 *Fraternity or sorority house* means a building which is used for living accommodations, meetings, gatherings or other activities for students who are members of a college or university fraternity or sorority and their guests.

.38 *Ground floor* means the story (of a building) having its floor elevation closest to the elevation of the adjacent street.

.39 *Group home* means a building or portion thereof intended for residential occupancy for periods of not less than one week and where the total occupancy of such facility does not constitute a family, as defined in this section, and having all of the following characteristics:

(1) Occupancy is not available to the general public.

(2) Sleeping areas are not arranged in a dormitory configuration.

(3) Facilities and services include living, sleeping, sanitation, either the provision of at least one daily meal or the provision of kitchen facilities for use by residents, and a defined program for operation and services for residents, which may include minor medical care, counseling, training and similar services.

(4) Supervision of residents is provided.

The term "group home" shall not be construed to include a "shelter" as defined in this section.

.40 *Home occupation* means any occupation, profession, business or enterprise which is incidental and secondary to the principal use of the premises as a dwelling unit.

.41 *Hospital* means a facility providing medical, psychiatric or surgical services for sick or injured persons primarily on an inpatient basis and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research and administration.

.42 *Hotel* and *motel* mean a building or group of buildings on the same site containing guestrooms with sanitation facilities, with or without kitchens, intended to be rented for compensation for occupancy by the traveling public and similar transient guests primarily on a daily or weekly basis. The terms "hotel" and "motel" are intended to apply to motor inns, motor lodges, auto courts and tourist courts, except when such terms conform to the definition of tourist home contained in this section, and are intended to be distinguished from lodginghouses, shelters, group homes and similar forms of housing. The term "hotel" applies to any such facility as defined herein consisting of a single building where primary access to all guestrooms is by way of a common lobby within the building or a corridor connected to a common lobby, with no primary access to individual guestrooms directly from the exterior of the building.

.43 *Industrialized building* means a combination of one or more sections or modules, subject to State regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in Code of Virginia, § 36-85.3 and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act shall not be considered industrialized buildings for the purpose of this definition.

.44 *Interstate highway* means any road within the National System of Interstate and Defense Highways described within 23 USC 103(e).

.45 *Kennel* means any lot or structure used for the sale, keeping, boarding or commercial breeding of dogs, cats, or other household pets and involving five or more such animals over the age of four months.

.46 *Kitchen* means a room or portion thereof containing facilities which are designed, intended or used for cooking and preparation of meals.

.47 *Land area* means the area of a lot within the property lines, plus one-half the width of abutting public street and alley rights-of-way.

.48 *Live/work unit* means a dwelling unit within which an occupation, profession, business or enterprise is conducted in conjunction with the living space of the owner or operator of such occupation, profession, business or enterprise, and which constitutes a principal use and does not otherwise meet the definition of home occupation contained in this article.

.49 *Loading space* means an area within a building or elsewhere on the premises used for the standing, loading or unloading of vehicles in connection with the use of the property on which such space is located.

.50 *Lodge* means a meeting place for an association of persons organized for a common nonprofit objective such as literature, science, politics, health, good fellowship or civic betterment, where no commercial enterprise is conducted on the premises and where use of the premises is generally limited to members of such association. A motorcycle or automobile club or private entertainment club shall not be considered a lodge.

.51 *Lodginghouse* means a building containing any number of lodging units, when the total of all such units in the building are occupied or intended to be occupied by a total of more than two persons, with or without board, and not available for occupancy for periods of less than one week, as distinguished from a group home or shelter, as defined in this section, and from a tourist home, hotel or motel where occupancy is available to transient guests on a daily basis. In addition to the foregoing, existence of any one or more of the following characteristics constitutes prima facie evidence that a dwelling use is being used as a lodginghouse: separate rental agreements for different occupants; exterior locking mechanisms on interior doors of rooms for occupants; separate entrances from the exterior of the building for individual occupants; and normally common areas of dwelling unit, such as the living room, family room or dining room, being used as sleeping areas or not being available on an equal or common basis to all occupants.

.52 *Lodging unit* means a room or group of rooms within buildings constituting separate and independent living quarters occupied or intended for occupancy by one family and containing provisions for living and sleeping, with or without sanitation facilities within the unit, and not containing cooking facilities.

.53 *Lodging unit, accessory,* means a lodging unit located within a single-family dwelling, consisting of a room separate from the primary living quarters of the dwelling, but with internal access through the dwelling, not containing facilities for cooking or refrigeration of food, and which is not available for occupancy for periods of less than one month.

.54 *Lot* means a parcel of land occupied or intended for occupancy by buildings or uses permitted by this chapter and including such area, yards and other open spaces as are required in this chapter. A lot may consist of a single lot of record or a combination of contiguous lots of record.

.55 *Lot, corner,* means a lot located at the intersection of two or more streets or a lot bounded entirely by streets. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the intersections of the side lot lines with the street line to the midpoint of the street frontage meet at an interior angle of 135 degrees or less.

.56 *Lot coverage* means that portion of a lot occupied at ground level or above by enclosed space within main buildings and accessory buildings.

.57 *Lot, interior,* means a lot having only one street frontage.

.58 *Lot of record* means a lot which is part of a subdivision recorded in the office of the clerk of the proper court, or a lot or parcel described by metes and bounds which has been so recorded.

.59 *Lot, through,* means a lot other than a corner lot having more than one street frontage.

.60 *Lot width* means the shortest horizontal distance between the points where the rear of the required front yard intersects the sidelines of a lot. For through lots, the lot width shall be measured adjacent to the street frontage to which the main building is oriented.

.60:1 *Major reconstruction* means reconstruction of a building to the extent of more than 60 percent of its replacement value, as determined by the commissioner of buildings utilizing the R S Means or a similar cost evaluation system for comparable construction. The term "reconstruction" includes major reconstruction as defined herein as well as any reconstruction to a lesser extent.

.61 *Mall* means a public way upon which business establishments have frontage and which serves primarily for the movement of pedestrians, with trees, benches or other furnishings provided and with vehicular access prohibited, restricted or reduced so as to emphasize pedestrian use.

.62 *Manufactured home* means any structure subject to Federal regulation and which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on a site; is built on a permanent chassis; is designed to be used for dwelling purposes by one family, with or without a permanent foundation, when connected to the required utilities; and which

includes the plumbing, heating, air-conditioning, and electrical systems to be utilized in the structure.

.63 *Manufactured home park* means a lot on which are located or which is arranged or equipped for the accommodation of two or more manufactured homes with spaces for such available for rent or lease for periods of not less than one month.

.64 *Marina* means any facility for the mooring, berthing, storing or securing of watercraft, including community piers and other boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat construction, boat repair, marina equipment sales or promotional events, boat and jet ski rentals and other uses clearly incidental to watercraft activities.

.65 *Mean grade level* means the average of the lowest and highest finished elevations of the ground adjacent to the exterior walls of a building.

.66 *Microwave relay facility* means a facility for the transmission and/or reception of radio frequency (RF) signals, typically consisting of an equipment enclosure or cabinet and one or more dish antennas (discs) which transmit point to point, mounted on an antenna support structure or alternative antenna support structure. Such a facility may be an accessory component of a wireless communications facility.

.67 *Microwave relay facility alternative support structure* means a building or structure designed, arranged and constructed for purposes permitted by the applicable underlying zoning, in or on which a microwave relay facility is installed. Structures which may qualify for consideration as an alternative support structure shall include, but not be limited to, water towers, smokestacks, ornamental towers, and mechanical enclosures which are otherwise permitted principal or accessory uses, provided that signs and billboards shall not be considered as alternative support structures.

.68 *Microwave relay facility support structure* means a structure designed and constructed specifically to support a microwave relay antenna, which may include a self-supporting monopole, a self-supporting tower (lattice), a guy wire supported tower, and other similar structures.

.69 *Nightclub* means any establishment in which all of the following features are made available at any time from 12:00 midnight until 6:00 a.m.:

(1) Alcoholic beverages served or consumed on the premises;

(2) Floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity, provided that floor space utilized for patrons to view television or similar media shall not be construed to constitute floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity; and

(3) Music or other sound that is amplified through speakers for the purpose of entertaining patrons, except for the following:

   a. Sound associated with television or similar media being viewed by patrons; and

   b. Music provided exclusively as background entertainment for dining patrons.

In any case where the above features are only incidental to a private event not open to the general public such as a wedding reception, banquet, nonprofit event or similar function, such features shall not be construed to constitute a nightclub.

.69:1 *Noncommercial flag* means a piece of cloth or other flexible material that only depicts the emblem or insignia of a nation, political unit, educational, charitable, religious, civic, or other similar group or is a decorative flag that does not display a commercial message, and generally attached by one edge to a flag pole or light pole.

.70 *Nonconforming feature* means a feature of a use, other than the use itself, or a feature of a building or structure lawfully existing at the effective date of the ordinance from which this chapter is derived or subsequent amendment thereto and which does not conform with the lot area, lot coverage, yard, open space, floor area, height, parking, loading, lighting, screening or other regulations of this chapter or any amendment thereto.

.71 *Nonconforming sign* means a sign lawfully existing at the effective date of the ordinance from which this chapter is derived or subsequent amendment thereto and which does not conform with the sign regulations of this chapter or any amendment thereto.

.72 *Nonconforming use* means a principal or accessory use of land, buildings or structures lawfully existing at the effective date of the ordinance from which this chapter is derived or subsequent amendment thereto and which does not conform with the use regulations of this chapter or any amendment thereto.

.73 *Nursing home* means any place, establishment, institution, or portion thereof providing on a continuing basis nursing and health-related services for the treatment and inpatient care of two or more persons and which is licensed by the commonwealth as a nursing home.

.74 *Open space, uncovered,* means exterior space open to the sky including usable roof area.

.75 *Parking area* means a parcel of land or portion thereof used for the parking of motor vehicles for which there is no direct charge to the user. A direct charge shall be construed to mean a charge levied at the parking area.

.76 *Parking deck* means a structure or portion of a structure used for the parking of motor vehicles and bicycles and primarily serving occupants of the premises on which it is located and which may include parking spaces that are leased for a term of not less than one month for use by others, so long as there is no direct charge to the user levied at the parking deck.

.77 *Parking garage* means a structure or portion of a structure generally available to the public and used for the parking of transient motor vehicles and bicycles for compensation, whether by prior rental or lease agreement or on an hourly or daily basis.

.78 *Parking lot* means a parcel of land or portion thereof used for the parking of motor vehicles as a commercial enterprise for which compensation is charged at the parking lot.

.79 *Parking space* means an area for the parking of one motor vehicle located other than within a public street or public alley right-of-way and having dimensions specified in Section 30-710.3:1 and having a permanent means of access to a public street or public alley without requiring passage through another parking space.

.80 *Parking space, bicycle,* means an area for the parking of one bicycle located other than within a public street or public alley right-of-way and having a paved means of access to a public street or public alley.

.81 *Parking space, long-term bicycle,* means a bicycle parking space in a secure, weather-protected facility intended for use as long-term, overnight, and work-day bicycle storage by dwelling unit residents, nonresidential occupants, and employees.

.82 *Parking space, short-term bicycle,* means a bicycle parking space provided by a bicycle rack located in a publicly accessible, highly visible location intended for transient or short-term use by visitors, guests, patrons, and deliveries to the building or use.

.83 *Parkway* means any highway, other than a designated Federal interstate highway, from which direct vehicular access to abutting privately owned properties is prohibited, and which is characterized by landscaped medians and/or shoulder areas, or any highway which is designated as a "parkway" in the City's master plan.

.84 *Party wall* means a wall separating and common to two buildings on individual lots and being of noncombustible material as specified by the Virginia Uniform Statewide Building Code.

.85 *Portable storage unit* means a portable, weather resistant receptacle designed and used for the temporary storage or shipment of household goods, personal property, wares or merchandise, and which is typically rented to owners or occupants of property for their temporary use, and which customarily is delivered and removed by truck. The term shall not be construed to include (i) receptacles used for collection of food, clothing, household goods or similar items in conjunction with an activity conducted by a governmental agency or a nonprofit organization, or (ii) waste and debris containers or temporary structures, trailers and storage of equipment and materials incidental to construction activities taking place on the premises.

.86 *Principal street frontage* means:

(1) In the case of a corner lot, that frontage of the lot lying within any district and situated along the street which carries the greater volume of pedestrian and vehicle traffic and generally functions as the primary orientation of dwellings, businesses or other uses within the block, and along which the principal entrance to the existing or proposed building on such corner lot is oriented. In a case where more than one street frontage of a corner lot meets any of the aforementioned criteria, the principal street frontage of the lot

shall be as determined by the Zoning Administrator after considering all of such criteria, together with any other unique physical conditions of the corner lot or the adjacent street and lot pattern; or

(2) In the case of an interior lot or a through lot, a street frontage that generally functions as the primary orientation of dwellings, businesses or other uses within the block.

.86:1 *Priority street frontage* means that portion of a lot abutting a street designated as a priority street on the official zoning map established and maintained pursuant to Section 30-200 and situated between lot lines intersecting such street.

.87 *Public mall* or *plaza* means a public right-of-way closed to motor vehicle travel intended for use as an outdoor pedestrian way or outdoor public assembly area or, similarly, a publicly owned property intended for and devoted to such use.

.88 *Public parking space* means an area for the parking of one motor vehicle located within a public right-of-way and available for parking by the general public during normal business hours other than such peak traffic periods as may be restricted by traffic regulations imposed by the City; or a structure which is operated for purposes of public parking on a not-for-profit basis by the City, other public agency or a merchants' or property owners' association, and which is identified as public parking by a sign posted in a conspicuous location, when such parking space is available for use by the general public during normal business hours and is not reserved, restricted or required for use by patrons or employees of any particular business or use.

.89 *Radio and television broadcast antenna* means a rod (whip) or other device intended to send signals produced by a radio or television broadcast studio to the receiving devices operated by end users.

.90 *Radio and television broadcast antenna alternative support structure* means a building or structure designed, arranged and constructed for purposes permitted by the applicable underlying zoning, in or on which a radio or television broadcast antenna is installed. Structures which may qualify for consideration as an alternative support structure shall include, but not be limited to, water towers, smokestacks, ornamental towers, and mechanical enclosures which are otherwise permitted principal or accessory uses, provided that signs and billboards shall not be considered as alternative support structures.

.91 *Radio and television broadcast antenna support structure* means the supporting structure on which a radio and television broadcast antenna is mounted, intended to provide height for the antenna to facilitate transmission of the radio or television signal over a geographic area, which may include a self-supporting monopole, a self-supporting tower (lattice), a guy wire supported tower, and other similar structures.

.92 *Recreational vehicle* means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term "recreational vehicle" shall include, but shall not be limited to, travel trailers, pickup campers, camping trailers, motorcoach homes, converted trucks and buses, and boats and boat trailers.

.93 *Retail sales of liquor* means any use involving the sale of distilled or spirituous beverages such as brandy or whiskey, as distinguished from fermented beverages such as wine or beer, to the general public for consumption off the premises, when such sale takes place within a portion of a retail establishment.

.94 *Retail stores and shops* means establishments wherein the principal activity is the sale of merchandise at retail to the general public, including incidental storage of goods to be sold at retail on the premises and including incidental fabrication or processing of goods to be sold principally at retail on the premises, but not including establishments for the sale in bulk of fuels, building materials and lumber, or the sale of motor vehicles, boats, trailers, machinery, heavy equipment, tires or similar items.

.94.1 *Series* means three or more attached buildings.

.95 *Roofline* means the highest point of the roof of a building.

.96 *Service station* means an establishment for the dispensing of motor fuels and related products at retail and having pumps, underground storage tanks and other facilities for such activity and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, sparkplugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items; and which may include the inspection, servicing or minor repair of motor vehicles in not more than three enclosed service bays or stalls. A service station shall not

include any establishment engaging in general auto or truck repair; body repair or painting; welding; frame straightening; tire recapping or vulcanizing; storage of wrecked vehicles; or any operation involving the installation or removal of engines, cylinder heads, crankcases, radiators, transmissions, differentials, fenders, doors, bumpers or other major body or mechanical parts.

.97 *Shelter* means a building or portion thereof intended for temporary residential occupancy on a daily or longer basis by persons with no other fixed place of abode or persons who are temporarily displaced from their place of abode and having all of the following characteristics:

(1) The use is operated on a not-for-profit basis;

(2) Sleeping areas are provided in a dormitory or other configuration;

(3) Facilities and services include living, sleeping, sanitation and the provision of at least one daily meal and are available only to residents and staff;

(4) Minor medical care, job counseling and substance abuse counseling services are available to residents, either on the premises or by written agreement with providers; and

(5) Supervision of residents is provided.

.98 *Shopping center* means a development that contains four or more retail or other commercial buildings planned, developed and managed as a unit and related in its location, size and types of establishments to the trade area which such unit is intended to serve and which is provided with off-street parking on the premises. For a shopping center with greater than 50 percent of the gross leasable area devoted to uses for which the number of spaces required is one per 100 square feet of floor area or greater, required parking shall be as specified in Section 30-710.3(e).

.98:1 *Short-term rental* means a room or group of rooms, all within a single dwelling unit of a dwelling use permitted in the district in which such dwelling use is located, used or intended for use as lodging for at least one but fewer than 30 consecutive nights by the traveling public and similar transient guests in return for compensation on a daily basis. The term "short-term rental" is intended to be distinguished from hotels, motels, tourist homes and lodginghouses, shelters, group homes, and similar forms of housing.

.98:2 *Short-term rental operator* means an individual who is the owner of a dwelling unit used as a short-term rental.

.98:3 *Short-term renter* means any person who contracts with a short-term rental operator to occupy a short-term rental in exchange for a charge for such occupancy, and any companions or guests of such person.

.99 *Sign* means any object, device, display, or part thereof, visible from a public place, a public right-of-way, or any navigable body of water, which is designed and used to attract attention to an institution, organization, business, product, service, event, location, or person by any means involving words, letters, figures, symbols, fixtures, logos, colors, illumination, or projected images. The term "sign" does not include the display of merchandise for sale on the site of the display.

.100 *Sign, animated,* means any sign having a conspicuous and intermittent variation in illumination, message or physical position of any or all of its parts, except that any sign which revolves around a fixed axis at a rate of not more than six revolutions per minute or any sign which flashes or changes its message not more than once every five seconds or any flag or banner which is entirely dependent upon wind for movement shall not be considered an animated sign for the purposes of this chapter.

.101 *Sign, awning,* means a sign painted, printed, sewn, or similarly attached to an awning as an integrated part of the awning itself.

.101:1 *Sign, canopy,* means a sign attached to a canopy so that the display surface is parallel, or nearly so, to the plane of the front building front façade.

.102 *Sign, commercial flag,* means a sign consisting of a piece of cloth or other flexible material used to attract attention to a commercial use, product, service, or activity and generally attached by one edge to a flag pole or light pole.

.102:1 *Sign, feather,* means a lightweight, portable sign mounted along one edge on a single, vertical, flexible

pole the physical structure of which may resemble a sail, bow, or teardrop.

.103 *Sign, freestanding,* means a sign supported by uprights, brackets, poles, posts, a foundation or similar features which are anchored within the ground.

.103:1 *Sign, minor,* means a wall or freestanding sign not exceeding two square feet in area in a residential district and a wall or freestanding sign not exceeding four square feet in area in any other district, provided such sign is located within ten feet of the main entrance to a building if a wall sign and within ten feet of the main entrance of the lot if a freestanding sign and provided such is not used to promote, identify, or attract attention to a commercial use.

.103:2 *Sign, off-premises,* means a sign that directs attention to a business, product, service, or activity conducted, sold, or offered at a location other than the premises on which the sign is erected.

.103:3 *Sign, pennant,* means a sign consisting of lightweight plastic, fabric, or other similar material, suspended from a rope, wire, or string, usually in series, and designed to move in the wind.

.104 *Sign, portable,* means a sign consisting of a fixed message or a changeable message panel, which sign is not attached to a building or anchored within the ground and is capable of being moved easily from one location to another on its own chassis or by other means.

.105 *Sign, projecting,* means a sign which is attached to and projects more than 15 inches from the face of a wall of a building so that the face of the sign is perpendicular or nearly perpendicular to the face of such wall.

.106 *Sign, roof,* means a sign, other than a wall sign or suspended sign, attached to or projecting over the roof of a building.

.107 *Sign, suspended,* means a sign suspended from the underside of an awning sign, a canopy sign, a porte cochere, or the roof of a permanently covered walkway or porch.

.108 *Sign, temporary,* means a sign constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight material not well suited to provide a durable substrate or, if made of some other material, is neither permanently installed in the ground nor permanently affixed to a building or structure.

.108:1 *Sign, traffic control,* means a sign solely regulating safe driving, parking, or traffic movement.

.108:2 *Sign, vehicle or trailer,* means a sign attached to or displayed on a vehicle or trailer, if the vehicle or trailer is used for the primary purpose of advertising a business, product, service, or other commercial activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates or inspection sticker, if the vehicle is inoperable, or if the sign alters the standard design of such vehicle or trailer.

.109 *Sign, wall,* means a sign which is painted on or attached to a wall or parapet wall, window or other vertical surface of a building, including the face of a porte cochere, permanently covered walkway or porch, and which sign extends no more than 15 inches from the surface to which it is attached, does not extend beyond the extremities of such surface and the message portion of which is parallel or nearly parallel to the surface to which the sign is attached. For a sign attached to a parapet wall, no portion of the sign may extend more than four feet above the roofline. Signs attached to the lower plane of a mansard or gambrel roof of a building shall be construed as wall signs, provided that such signs are attached flat to the roof surface or are parallel to the building wall above which they are located and do not extend beyond the extremities of the roof surface to which they are attached.

.109:1 *Sign, window,* means any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

.110 *Social service delivery use* means a use which is operated for the purpose of providing directly to persons who are members of a specific client group, as opposed to the general public, one or more services such as counseling, training, medical care, feeding, or similar services, when such use is operated on a not-for-profit basis and when no compensation or greatly reduced compensation is paid by persons receiving such service. The term "social service delivery use" shall not be construed to include uses operated by governmental agencies, facilities for housing of persons, facilities intended for incarceration or alternative sentencing, or facilities primarily for the care or treatment of persons who are currently illegally using or are addicted to a controlled substance as defined in Code of Virginia, § 54.1-3401. An office operated for the purpose of administration of a service agency and not intended

for the delivery of a service directly to the client shall not be construed to be a "social service delivery use."

.110:1 *Solar energy system* means a device or structural design feature that provides for the collection of solar energy for electricity generation, consumption, or transmission, or for thermal application.

.110:2 *Solar energy system, building mounted* means a solar energy system affixed to or placed on a principal or accessory building.

.110:3 *Solar energy system, freestanding* means a solar energy system with a supporting framework that is placed on or anchored in the ground that is independent of any building or other structure.

.111 *Specified anatomical areas* means human genitals in a state of sexual arousal.

.112 *Specified sexual activities* means:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

.113 *Story* means the space of a building between successive floor levels of occupiable and habitable space as determined by application of the Virginia Uniform Statewide Building Code, or between the floor and the top of the unfinished ceiling joists of the uppermost level of occupiable and habitable space as determined by application of the Virginia Uniform Statewide Building Code. A story as defined herein having less than five feet of its height situated above the mean grade level at the building façade along the street frontage of the lot shall not be considered a story for purposes of determining the number of stories in a building located in a district where height regulations are stated in terms of number of stories.

.114 *Story height* means the distance between the floor level of a story of a building and the floor level of the story immediately above or, in the case of the uppermost story of a building, the distance between the floor level and the top of the unfinished ceiling joists.

.115 *Story, street level,* means, for purposes of determining application of fenestration requirements, the story (of a building) having its floor elevation closest to the elevation of the adjacent street or any story partially below the elevation of the adjacent street and having five feet or more of its height above the elevation of the street.

.116 *Street* means a public or private thoroughfare which affords the principal means of vehicular access to abutting properties and including the entire area between the street lines.

.117 *Street frontage* means that portion of a lot abutting a street and situated between lot lines intersecting such street. Also referred to as "lot frontage."

.118 *Street line* means the right-of-way of a public street or the boundary line of a private street or access easement.

.118:1 *Street-oriented commercial frontage* means that portion of a lot abutting a street designated as a street-oriented commercial street on the official zoning map established and maintained pursuant to Section 30-200 and situated between lot lines intersecting such street.

.119 *Structural alteration* means any change in the supporting members of a structure, including foundations, bearing walls, bearing partitions, columns, beams or girders, or any change in the supporting members of a roof of a structure.

.120 *Structure* means anything constructed or erected which has a fixed location on the ground or which is attached to something having a fixed location on the ground.

.121 *Temporary event* means any activity occurring on private property, other than an activity which is otherwise permitted as a principal or accessory use on the property by virtue of the use regulations applicable in the district in which the property is located, when such activity is open to the general public and occurs on no more than a total of four days in any consecutive 12-month period.

.122 *Tourist home* means a building containing not more than ten guestrooms, with or without kitchens and with or without board, intended to be rented for compensation for occupancy by the traveling public and similar transient guests on a daily basis and in which access to individual guestrooms is provided exclusively from within the building, as distinguished from a hotel, motel, lodginghouse, group home, shelter or similar form of housing.

.123 *Transitional site* means a lot or portion thereof located in an RO, HO or B district and situated within 50 feet of and fronting on the same block as property in an R district. A corner site as described shall not be considered a transitional site where one frontage of the site is adjacent to or across an alley from property zoned other than residential and where that frontage is situated along a major, secondary or collector street as designated along a major, secondary or collector street as designated in the City's master plan.

.124 *Travel trailer* means a portable vehicular dwelling on its own chassis intended to be towed by another vehicle and designed for short-term occupancy for travel, recreation and vacation use and containing 320 square feet of living space or less, with or without complete kitchen and sanitary facilities. A travel trailer shall be considered a recreational vehicle for the purpose of this chapter.

.125 *Travel trailer park* means a lot on which are located or which is arranged or equipped for the accommodation of two or more travel trailers or other recreational vehicles used for temporary dwelling purposes, with spaces for such available for rent on a daily or longer basis.

.126 *Unenclosed porch* means a covered or uncovered porch which is open to the weather or screened on all sides except where attached to the walls of a building.

.127 *Unit width* means the width of a single-family attached dwelling unit as measured between the side property lines at the front building wall for units attached on both sides, and between the side property line and the exterior face of the opposite outside wall for units attached on one side. When the width of a unit measured at the front building wall varies from the width measured at the rear building wall, unit width shall be determined by the average of the two.

.128 *Usable open space* means that portion of a lot or that portion of a development site which is not covered by building area or vehicular area and including usable roof area and exterior balconies, terraces or patios not covered by enclosed building space.

.129 *Usable open space ratio* means the total square foot amount of usable open space on a lot or on a development site for each square foot of floor area on the lot or on the development site. The usable open space ratio is determined by dividing the amount of usable open space by the amount of floor area.

.130 *Usable roof area* means that portion of the roof of a main building or an accessory building which is open to the sky and which is accessible to occupants of the premises and improved for their leisure time use.

.131 *Vehicular area* means that portion of a lot which is designated or generally used for the parking or circulation of motor vehicles.

.132 *Wireless communications* means any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes commercial wireless telecommunications services licensed by the Federal Communications Commission, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar commercial services that exist or that may be developed.

.133 *Wireless communications antenna array* means one or more rods (whips) that are omnidirectional, panels which are directional, or similar devices used for the transmission or reception of radio frequency (RF) signal.

.134 *Wireless communications facility* means an unstaffed facility for the transmission and/or reception of radio frequency (RF) signals for wireless communications purposes, typically consisting of an equipment enclosure or cabinet and one or more antennas mounted on an antenna support structure or alternative antenna support structure. Such facility may include direct links to land-based wired communications infrastructure or may use an accessory microwave relay to transmit signals to another point in the wireless or wired communications network.

.135 *Wireless communications facility alternative support structure* means a building or structure designed, arranged and constructed for purposes permitted by the applicable underlying zoning, in or on which a wireless communications facility is installed. Structures which may qualify for consideration as an alternative support

structure shall include, but not be limited to, lattice electric power line support towers, water towers, smokestacks, ornamental towers, and mechanical enclosures which are otherwise permitted principal or accessory uses, provided that signs and billboards shall not be considered as alternative support structures.

.136 *Wireless communications facility support structure* means a structure designed and constructed specifically to support an antenna array for wireless communications, which may include a self-supporting monopole, a self-supporting tower (lattice), a guy wire supported tower, and other similar structures.

.137 *Yard* means an open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from three feet above the ground level upward, except as otherwise provided in Section 30-630.9.

.138 *Yard, front,* means a yard extending the length of the street frontage of a lot and being the minimum horizontal distance between the street line and the main building.

.139 *Yard, rear,* means a yard extending across the rear of a lot between the minimum required side yard lines and being the minimum horizontal distance between the rear lot line and the main building.

.140 *Yard, side,* means a yard parallel to the side lot line and extending from the rear of the required front yard or the street line, if no front yard is required, to the rear lot line and being the minimum horizontal distance between the side lot line and the main building. On irregular shaped lots, any yard to which the definitions contained in this section are not clearly applicable shall be deemed a side yard.

.141 *Yard, street side,* means a side yard adjacent to a street.

(Code 1993, § 32-1220; Code 2004, § 114-1220; Code 2015, § 30-1220; Ord. No. 2004-180-167, § 1, 6-28-2004; Ord. No. 2005-339-2006-10, § 1, 1-9-2006; Ord. No. 2006-43-63, § 1, 3-13-2006; Ord. No. 2006-115-100, § 1, 5-8-2006; Ord. No. 2006-168-189, § 2, 7-10-2006; Ord. No. 2006-197-217, § 4, 7-24-2006; Ord. No. 2006-331-2007-13, § 1, 1-8-2007; Ord. No. 2008-2-55, § 2, 3-24-2008; Ord. No. 2009-36-56, § 1, 4-27-2009; Ord. No. 2009-40-57, § 1, 4-27-2009; Ord. No. 2010-19-31, § 3, 2-22-2010; Ord. No. 2010-20-49, § 1, 3-8-2010; Ord. No. 2010-209-216, § 4, 12-13-2010; Ord. No. 2011-29-150, § 12, 9-12-2011; Ord. No. 2011-205-2012-1, § 1, 1-9-2012; Ord. No. 2012-234-2013-2, § 1, 1-14-2013; Ord. No. 2015-151-164, § 1, 9-14-2015; Ord. No. 2017-150, § 8, 9-25-2017; Ord. No. 2017-149, §§ 6, 7, 9-11-2017; Ord. No. 2018-209, §§ 2, 4, 9-10-2018; Ord. No. 2019-343, § 1(30-1220), 6-22-2020; Ord. No. 2020-171, § 9(30-1220), 9-28-2020)

Cross reference—Definitions generally, § 1-2.