

Monument Removal

City-Owned War Memorials or Monuments on Monument Avenue

Legal Requirements

- General Assembly-mandated process under revised Va. Code § 15.2-1812 effective July 1.
 - Planning Commission location, character, and extent approval under City Charter § 17.07.
 - Public Art Commission
 - Urban Design Committee
 - Certificate of Appropriateness from Commission of Architectural Review under City Code § 30-930.6.
- * Note that there are practical considerations such as planning, contracting, and traffic control on which the Administration is already working

General Assembly-Mandated Process

- The Council introduces an ordinance to remove the monument.
- The public hearing on the ordinance occurs 30 days after the advertisement of the public hearing is published in the newspaper.
- Immediately after the public hearing ends, the Council votes to adopt the ordinance.
- After the Council votes, the monument must be offered “for relocation and placement to any museum, historical society, government, or military battlefield” for 30 days before it may be removed.
- The Council has sole authority to determine the final disposition of the monument.

Ordinance to Remove Monuments

- Provides for the offering of the monument or monuments identified in the ordinance for 30 days as required by Va. Code § 15.2-1812.
- Directs the removal of the monument once this offering period has expired.
- Directs that the statue portion of the monument be stored at a particular location pending final disposition.
- Changes the use, pursuant to City Code § 8-12, of the location at which the statue portion of the monument will be stored to include monument storage.

Ordinance to Remove Monuments

- Provides for the Council to accept an offer or otherwise direct the disposal of the statue portion of the monument by resolution after the statue portion has been removed.
- Directs that the pedestal portion of the monument be demolished as soon as is practicable.
- Repeals any earlier ordinances intended to protect or maintain the monument in place.

Potential Hurdles to Monument Removal

- The Planning Commission could disapprove the location, character, and extent of the removal. ***Solution:*** *The Council overrules the Planning Commission on appeal.*
- The Commission of Architectural Review could deny the issuance of a Certificate of Appropriateness. ***Solution:*** *The Council overrules the Commission of Architectural Review on appeal.*
- Deed restrictions or other legal encumbrances could hinder the City's removal of the monument. ***Solution:*** *Make arrangements with the party who can enforce the restriction or encumbrance to avoid litigation.*

Potential Consequences of Removal without Following General Assembly-Mandated Process

- Criminal charges under Va. Code § 18.2-137.
- Civil litigation under Va. Code § 15.2-1812.1.
- Indefinite injunctions prohibiting the removal of the monuments or, if already removed, requiring their restoration until the litigation is resolved.