

Chapter 5 BICYCLES¹

ARTICLE I. IN GENERAL

Sec. 5-1. Definition.

The word "bicycle," as used in this chapter, means a device propelled solely by human power, having pedals, two or more wheels and a seat height of more than 25 inches from the ground when adjusted to its maximum height.

(Code 1973, § 5-1; Code 1988, § 5-1)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-100.

Sec. 5-2. General penalty for violation of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall be punishable by a fine of not less than \$5.00 nor more than \$20.00.

(Code 1973, § 5-12; Code 1988, § 5-2)

Sec. 5-3. Removing, altering, etc., frame number.

- (a) It shall be unlawful for any person to remove, change, alter, mutilate or in any way render undistinguishable any bicycle frame number; provided however, that when a bicycle is registered under this chapter and the frame number has been obliterated or is illegible or if there is no frame number, the commissioner of the revenue may place or cause to be placed a frame number thereon for registration purposes; and further provided that every person engaged in the business of buying, selling, exchanging, or trading new or used bicycles shall, prior to the sale of a bicycle not having a frame number, stamp a frame number thereon in accordance with regulations propounded by the commissioner of the revenue.
- (b) Any person who removes, changes, alters or mutilates any bicycle frame number in violation of this section shall, upon conviction thereof, be fined not more than \$50.00.

(Code 1973, §§ 5-7, 5-12; Code 1988, § 5-5)

Secs. 5-4—5-25. Reserved.

¹Cross reference(s)—Motor vehicles and traffic, ch. 22.

State law reference(s)—Bicycles, Code of Virginia, §§ 15.2-1719, 15.2-1720, 46.2-808, 46.2-847, 46.2-903—46.2-908.1, 46.2-932, 46.2-1015, 46.2-1051, 46.2-1054, 46.2-1066, 46.2-1078, 46.2-1081.

ARTICLE II. REGISTRATION

Sec. 5-26. Required.

It shall be unlawful for any person to operate, ride or use, or permit to be operated, ridden or used, any bicycle upon the streets of the city, unless such bicycle is registered as provided in this article.

(Code 1973, § 5-2; Code 1988, § 5-26)

State law reference(s)—Authority of city to license bicycles, Code of Virginia, § 15.2-1720.

Sec. 5-27. Duties of dealers.

- (a) Every person engaged in the business of buying, selling, exchanging or trading new or used bicycles shall:
- (1) Register the bicycle on forms prescribed by the commissioner of the revenue and affix a decal prescribed by the commissioner in a conspicuous place on that part of the bicycle frame into which the seat post is fitted or such other place as may be designated by the commissioner of the revenue before sale is consummated; or
 - (2) Provide to the commissioner of the revenue the name and address of the purchaser and the serial number of the bicycle purchased, if available, together with the registration fee prescribed in this article within 30 days from the date of the sale.
- (b) The registration fee prescribed in this article shall be collected by such person, held in trust and paid to the commissioner of the revenue. Such person may charge a service fee of ten percent for all registration fees collected.

(Code 1973, § 5-3; Code 1988, § 5-27)

Sec. 5-28. Application.

The registration of bicycles, other than those registered under section 5-27 shall be upon written application therefor made to the commissioner of the revenue on forms prescribed by him. Such forms shall be distributed to the public by such persons and business establishments designated by the commissioner of the revenue. Written application shall be made by the owner of the bicycle, if the owner is 18 years of age or older. If the owner is under 18 years of age, the application shall be made by his parent or guardian. The completed application shall be delivered or mailed to the commissioner of the revenue along with the prescribed registration fee.

(Code 1973, § 5-3; Code 1988, § 5-28)

Sec. 5-29. Fee.

The fee for registration of a bicycle shall be as set forth in appendix A to this Code, to be paid as provided in section 5-27 or 5-28.

(Code 1973, § 5-5; Code 1988, § 5-29)

Charter reference(s)—Authority of council to establish and collect fees and charges, § 2.14.

Sec. 5-30. Issuance of card and decal; display of decal.

After approval of an application submitted under this article, the commissioner of the revenue shall issue to the applicant a registration card and a decal in a form prescribed by him. The decal shall be affixed to the registered bicycle in a conspicuous place on that part of the bicycle frame into which the seat post is fitted. No person shall attach any such decal to a bicycle other than the one for which the decal was issued.

(Code 1973, § 5-3; Code 1988, § 5-30)

Sec. 5-31. Information to be furnished chief of police.

Upon issuance of a bicycle registration card and decal, the commissioner of the revenue shall cause to be delivered to the chief of police a copy of the application for registration, indicating thereon the registration number of the decal issued.

(Code 1973, § 5-3; Code 1988, § 5-31)

Sec. 5-32. Removing, destroying or altering decal.

It shall be unlawful for any person to remove, destroy, mutilate or alter any bicycle decal issued under this article.

(Code 1973, § 5-6; Code 1988, § 5-32)

Sec. 5-33. Replacement of lost or mutilated decal; fee.

- (a) When any decal issued under this article is mutilated, lost, stolen or misplaced and cannot be found, upon satisfactory evidence of such fact being presented to the commissioner of the revenue, he shall issue another decal and shall change the registration of the bicycle accordingly. The commissioner shall cause notification of the change to be delivered to the chief of police.
- (b) The fee for the issuance of a replacement decal under this section shall be as set forth in appendix A to this Code, which fee shall be paid prior to issuance of the decal.

(Code 1973, §§ 5-4, 5-5; Code 1988, § 5-33)

Sec. 5-34. Fee for transfer of registration.

When the registration of a bicycle is changed from one person to another there shall be paid a fee as set out in appendix A to this Code.

(Code 1973, § 5-5; Code 1988, § 5-34)

Sec. 5-35. Suspension or revocation of card and decal.

The commissioner of the revenue shall have the right to suspend or revoke a registration card and decal issued under this article, at his discretion, upon the submission of satisfactory evidence of the violation of any of the provisions of this chapter by the person to whom the same were issued, after due notice and an opportunity to

be heard has been given such person. Any person whose card and decal are so suspended or revoked shall have the right to appeal to the general district court of the city.

(Code 1973, § 5-8; Code 1988, § 5-35)

Sec. 5-36. Return of card upon sale or transfer of ownership of bicycle.

It shall be the duty of every person who sells or transfers ownership of any bicycle to report such sale or transfer by returning to the commissioner of the revenue the registration card issued to such person, together with the name and address of the person to whom the bicycle was sold or transferred. Such report shall be made within seven days of the date of the sale or transfer. The commissioner shall cause a copy of the report to be delivered to the chief of police.

(Code 1973, § 5-9; Code 1988, § 5-36)

Sec. 5-37. Records to be kept.

The commissioner of the revenue shall keep a complete report of all bicycles registered pursuant to this article, showing the name and address of the owner thereof, the make, class and frame number of the bicycle, the number of the decal issued therefor and such other information as the commissioner may prescribe.

(Code 1973, § 5-3; Code 1988, § 5-37)

Sec. 5-38. Impoundment of unregistered bicycles.

- (a) When any police officer or other officer charged with the duty of enforcing the ordinances of the city discovers any unregistered bicycle in any public place in the possession or control of any person, he may take custody of the bicycle and impound the same. Any bicycle impounded shall be released only upon a satisfactory showing of ownership, payment of the amount as set forth in appendix A to this Code for storage charge and proper registration and display of registration decal by the owner or his agent.
- (b) Any person under 18 years of age whose bicycle is taken into custody pursuant to this section shall be escorted forthwith to his place of residence or other appropriate place.
- (c) The officer shall inform the person from whose possession or control the bicycle was removed, of the provisions of this section upon his taking the bicycle into custody, and he shall mail or hand deliver a notice containing the provisions of this section to such person. In the case of persons under 18 years of age, such notice shall be mailed or hand delivered to the parents or guardians of such person.
- (d) If any bicycle impounded under this section not reclaimed within 30 days from the date of impounding, the chief of police shall cause the bicycle to be sold and the funds therefrom shall be paid over to the city treasurer, and shall be used for the purpose of defraying the cost and expenses incident to the registration of bicycles and carrying out the provisions of this chapter.

(Code 1973, § 5-12.1; Code 1988, § 5-38)

Cross reference(s)—General provisions as to disposition of unclaimed property in custody of police, § 27-51 et seq.

State law reference(s)—Authority to provide for sale of unclaimed bicycles, Code of Virginia, § 15.2-1719.

Secs. 5-39—5-60. Reserved.

ARTICLE III. OPERATION AND EQUIPMENT²

Sec. 5-61. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a traffic infraction punishable by a fine of not more than \$200.00.

(Code 1988, § 5-61; Ord. No. 1992-59, § 1, 6-23-1992)

State law reference(s)—Penalty for traffic infractions, Code of Virginia, § 46.2-113.

Sec. 5-62. Compliance with traffic signals and directions of police.

Every person riding a bicycle over any street shall comply with all traffic signs, signals and lights and with all directions given by any member of the police department.

(Code 1973, § 5-24; Code 1988, § 5-62)

Sec. 5-63. Consent of owner prerequisite to operation.

No person shall operate any bicycle upon any street without the consent of the owner of the bicycle.

(Code 1973, § 5-32; Code 1988, § 5-63)

Sec. 5-64. Stopping and turning signals.

A person riding a bicycle shall signal his intention to stop, turn or change direction. Such signal, however, need not be given continuously if both hands are needed in the control or operation of the bicycle.

(Code 1973, §§ 5-25, 23-65; Code 1988, § 5-64)

Sec. 5-65. Rider not to attach himself or bicycles to vehicle on roadway.

No person riding a bicycle shall attach the same or himself to any vehicle upon a roadway.

(Code 1973, §§ 5-26, 23-336; Code 1988, § 5-65)

Cross reference(s)—Similar provisions applicable to persons riding mopeds, roller skates, etc., § 22-708(c).

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-932.

²Cross reference(s)—Riding bicycle on Elizabeth River seawall or adjacent areas, § 6-5; application of traffic regulations to persons riding bicycles, § 22-6.

Sec. 5-66. Riding on sidewalks or crosswalks.

- (a) No person shall ride a bicycle on a sidewalk or crosswalk in an area where signs indicate that such riding is prohibited.
- (b) No person shall ride a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, where such use of bicycles is prohibited by official traffic-control devices.
- (c) In locations where the riding of bicycles on sidewalks or crosswalks is not prohibited:
 - (1) A person riding a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing a pedestrian and shall ride in a single file.
 - (2) A person riding a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.
- (d) Violation of any provision of this section shall not be considered a traffic infraction and shall be punishable by a fine of not more than \$200.00.

(Code 1973, §§ 5-27, 23-73; Code 1988, § 5-66; Ord. No. 1995-27, § 1, 3-28-1995; Ord. No. 2014-21, § 1, 3-25-2014)

Cross reference(s)—Riding bicycle on Elizabeth River seawall or adjacent areas, § 6-5.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-904.

Sec. 5-67. Coasting, trick riding.

It shall be unlawful for any person riding upon a bicycle on any street to coast upon such bicycle by permitting it to proceed by inertia or momentum with his feet removed from the pedals, but the rider shall at all times keep his feet upon the pedals and a hold upon the handlebars, so as to have the same under proper control to avoid accidents. No rider of a bicycle shall remove both hands from the handlebars or practice any trick or fancy riding on any street, lane, alley or highway.

(Code 1973, § 5-28; Code 1988, § 5-68)

Sec. 5-68. Passengers.

It shall be unlawful for any person riding upon a one-seated bicycle to carry any additional person upon the same.

(Code 1973, § 5-29; Code 1988, § 5-69)

Sec. 5-69. Reckless operation; speed.

No person shall operate a bicycle recklessly or at a speed greater than is reasonable and proper or so as to endanger the property and life or limb of the rider or of any other person.

(Code 1973, § 5-30; Code 1988, § 5-70)

Sec. 5-70. Riding on busy thoroughfares.

Upon all heavily traveled thoroughfares, it shall be the duty of all persons operating bicycles to keep close to the righthand curb and ride in single file.

(Code 1973, § 5-31; Code 1988, § 5-71)

Sec. 5-71. Warning devices.

Every bicycle shall be equipped with an ordinary bicycle bell or other warning device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with, nor shall any person use any siren or whistle upon a bicycle.

(Code 1973, § 5-33; Code 1988, § 5-72)

Sec. 5-72. Brakes.

Every bicycle shall be equipped with brakes sufficient for the operator to make the braked wheel skid on dry, level, clean pavement.

(Code 1973, §§ 5-34, 23-376; Code 1988, § 5-73)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1066.

Sec. 5-73. Lamps and reflectors.

Every bicycle when in use between sunset and sunrise shall be equipped with a lamp on the front which shall emit a white light visible in clear weather from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the superintendent of state police which shall be visible from all distances in clear weather from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible in clear weather from a distance of 500 feet to the rear may be used in lieu of or in addition to the red reflector.

(Code 1973, § 23-360; Code 1988, § 5-74)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1015.

Sec. 6-5. Use of or riding of roller skates, skateboards, or other similar devices on the seawall along the Elizabeth River or adjacent areas.

- (a) No person shall use or ride on the seawall along the Elizabeth River or the areas adjacent to the seawall designated as the Portside Festival site any skateboards, toys or similar related devices on wheels or runners. This provision shall not be applicable to the use of wheelchairs for transportation of handicapped persons or the use of baby carriages, strollers or related modes of transportation for infants, who are accompanied by a parent or guardian. The use of roller skates shall be permitted only in areas so designated by markings provided by the city's traffic engineering department for that specific use or activity.
- (b) The use or riding of bicycles in those areas designated in subsection (a) of this section shall be permitted except where signs indicate that such use or riding is prohibited.
- (c) Violation of any provision of this section shall be punishable by a fine of not more than \$200.00.

(Code 1973, § 5-27; Code 1988, § 6-5; Ord. No. 1991-49, § 1, 5-28-1991; Ord. No. 1995-29, § 1, 3-28-1995; Ord. No. 2014-21, § 2, 3-25-2014)

Chapter 22 MOTOR VEHICLES AND TRAFFIC³

ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in Code of Virginia, § 46.2-100 as in effect on July 1, 2006, and any subsequent amendments thereto, except in those instances where the context clearly indicates a different meaning.

Motorized push scooter. For purposes of this chapter, a motorized push scooter is defined as a conveyance with a flat platform upon which the rider stands, with a post or handlebars or other steering mechanism at the front of the conveyance, with two inline wheels, or three or four wheels and is powered by either an electric or internal combustion motor. Such conveyances may have an optional seat that can be attached for operation in a sitting position. A motorized push scooter shall not include any wheelchair or wheelchair conveyance used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians.

(Code 1973, § 23-1; Code 1988, § 22-1; Ord. No. 1988-62, § 2, 6-28-1988; Ord. No. 1989-61, § 1, 6-27-1989; Ord. No. 1989-83, 9-26-1989; Ord. No. 1990-69, § 1, 6-26-1990; Ord. No. 1992-58, § 1, 6-23-1992; Ord. No. 1993-50, § 1, 6-22-1993; Ord. No. 1994-72, § 1, 6-28-1994; Ord. No. 2005-104, § 1, 11-22-2005)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

State law reference(s)—Definitions, Code of Virginia, § 46.2-100.

Sec. 22-2. Adoption of state law.

- (a) Pursuant to the authority of the Code of Virginia, §§ 1-220, 46.2-1300 and 46.2-1313, all of the provisions and requirements of the laws of the commonwealth contained in the Code of Virginia, §§ 46.2-100 et seq., 18.2-266 et seq. and 16.1-278 et seq.; except those provisions in conflict with those otherwise contained in this chapter; and 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 in this chapter by reference, and made applicable within the city.

³Cross reference(s)—Permitting dog to ride in open vehicle, § 4-35; bicycles, ch. 5; protection of food during transportation, § 15-5; dealers in secondhand motor vehicle parts and accessories, § 18-101 et seq.; residential (yard) sales not to interfere with traffic, § 18-132; open storage of inoperable vehicles, § 23-46 et seq.; unnecessary noise from vehicles, § 24-255; damaging, tampering with, etc., vehicles, § 24-321; operation of commercial vehicles in parks, § 25-96; traffic regulation in parks, § 25-112 et seq.; railroads, ch. 29; streets, sidewalks and local improvements, ch. 32; subdivisions, ch. 33.1; vehicles for hire, ch. 37; zoning, ch. 40.2.

State law reference(s)—Municipal powers as to use of streets, Code of Virginia, §§ 15.2-2013, 15.2-2029; motor vehicles, Code of Virginia, § 46.2-100 et seq.; drivers' licenses, Code of Virginia, § 46.2-300 et seq.; municipal parking permits, Code of Virginia, § 46.2-1230; local regulation of traffic, Code of Virginia, § 46.2-1300 et seq.

References to "highways of the state" contained in such provisions and requirements shall be deemed to refer to the streets, highways and other public ways within the city; and the 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 chapter as fully as though set forth 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 the Code of Virginia, §§ 46.2-100 et seq., 18.2-266 et seq., or 16.1-278 et seq., which are adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement adopted in this section differ from the penalty imposed for the same or a similar offense under the general law of the commonwealth; which said penalty provisions of state law shall govern over any conflicting provisions of this Code.

- (b) Pursuant to the provisions of the Code of Virginia, § 1-220, the incorporation of above-referenced sections of the Code of Virginia shall include all future amendments to the referenced provisions of the state statutes as may from time to time be adopted by the Virginia General Assembly.
- (c) Pursuant to the provisions of the Code of Virginia, § 46.2-1313, the incorporation of the above-referenced sections of the Code of Virginia shall include provisions of state law adopted and approved but not yet in effect, provided, however, that said provisions shall not become effective until the effective date of the state law.

State law reference(s)—Authority to adopt state law by reference, Code of Virginia, §§ 1-220, 46.2-1313.

Sec. 22-3. General penalty for violations of chapter.

- (a) Unless otherwise provided, a violation of any of the provisions of this chapter shall constitute a traffic infraction punishable by a fine of not more [than] \$250.00.
- (b) Every person convicted of any state statute or city ordinance shall be assessed the sum as set out in appendix A to this Code as part of the costs in each traffic case in the district and circuit courts. The assessment shall be collected by the clerk of the court in which the case is heard, remitted to the city treasurer, and held by the city treasurer subject to appropriation to the sheriff for the funding of courthouse security personnel.

(Code 1973, § 23-1.1; Code 1988, § 22-2; Ord. No. 1992-58, § 1, 6-23-1992; Ord. No. 2002-41, § 1, 7-9-2002; Ord. No. 2005-104, § 1, 11-22-2005; Ord. No. 2010-18, § 1, 3-23-2010)

State law reference(s)—Penalty applicable to violation of state traffic laws, Code of Virginia, § 46.2-1113; city prohibited from imposing penalty for traffic violation which is greater than penalty imposed by state law for similar offense, Code of Virginia, § 46.2-1300.

Sec. 22-4. Driver improvement program.

- (a) There is hereby established the city driver improvement program to be directed and conducted by the general district court for the purpose of giving instruction concerning laws and ordinances for the regulation of vehicular traffic, safe operation of vehicles and other related subjects. The court may, in its discretion, conduct the program in conjunction with the Southeastern Virginia Alcohol Safety Action Program. Instruction shall be conducted at such times and dates as may be approved by the court. Instructors shall include personnel from the Southeastern Virginia Alcohol Safety Action Program or such other groups or individuals as may be approved by the court.
- (b) In lieu of or in addition to the penalties prescribed, any person found guilty of violation of any of the provisions of this chapter may be required by any court in the city to attend the city driver improvement program, which shall consist of ten hours of instruction to be provided by sworn police officers or certified defensive driver instructors, or any traffic school that has been established in the county or city where the

person is a resident or in any jurisdiction contiguous to the county or city of residence of the convicted violator for a period specified in the order requiring attendance if the governing body of that contiguous jurisdiction consents thereto. Failure to comply with the order of the court shall be punishable as contempt.

(Code 1973, § 23-1.1; Code 1988, § 22-7; Ord. No. 1993-15, § 1, 2-9-1993; Ord. No. 1993-50, § 1, 6-22-1993)

State law reference(s)—Authority for above section, Code of Virginia, § 46.2-1314.

Sec. 22-5. General authority of city manager relative to traffic.

- (a) The city manager shall have general supervision and control of management and direction of all vehicular and pedestrian traffic and of the parking and routing of vehicles in the interest of the public safety, comfort and convenience not inconsistent with the provisions of Code of Virginia, § 46.2-100 et seq.
- (b) The city manager may cause appropriate signs to be erected and maintained designating residence and business districts, school, hospital and safety zones, highway and railway crossings, stop intersections, yield right-of-way intersections, arterial streets, arterial stops, turns at intersections, traffic lanes, and such other signs as may be necessary to carry out the provisions of this chapter.
- (c) The city manager shall have the power to regulate traffic by means of traffic officers or traffic lights or other signaling devices on any portion of the highway where traffic is heavy or continuous, or where in his judgment conditions may require and may regulate the use of the highways by processions and assemblages.
- (d) The city manager may adopt any such regulations not inconsistent with the provisions of this chapter or other city ordinance or resolution as he shall deem advisable and necessary, and repeal, amend or modify any such regulations; provided, however, that such regulations, laws or rules shall not be deemed to be violated, if at the time of the alleged violation any sign or designation required under the terms of this chapter is missing, effaced, mutilated or defaced so that an ordinarily observant person under the same circumstances would not be apprised of or aware of the existence of such rule.
- (e) The regulations of or effected by the city manager pursuant to this section shall be subject to the supervision, direction and control of the city council.
- (f) The existence of any such sign or designation at any place within the city shall be prima facie evidence that such signs or markers were erected and placed by or at the direction of the city manager and in accordance with the provisions of this section.
- (g) No person shall fail or refuse to comply with the direction indicated on any sign or marker erected or placed in accordance with the provisions of this section.

(Code 1973, § 23-5; Code 1988, § 22-8)

State law reference(s)—Local parking regulations, Code of Virginia, § 46.2-1220; designation of stop and yield right-of-way intersections, Code of Virginia, § 46.2-1301.

Sec. 22-6. Applicability of chapter to persons operating bicycles, mopeds, etc.

Every person operating a bicycle, moped, electric personal assistive mobility device, electric power-assisted bicycle or animal or driving any animal upon a roadway shall be subject to the provisions of this chapter and shall have all of the rights and all of the duties applicable to the driver of a vehicle, unless the context of the provision clearly indicates otherwise.

(Code 1973, § 23-3; Code 1988, § 22-10; Ord. No. 1994-72, § 1, 6-28-1994; Ord. No. 2005-104, § 1, 11-22-2005)

Cross reference(s)—Animals and fowl, ch. 4; bicycles, ch. 5.

State law reference(s)—Applicability of state law, Code of Virginia, § 46.2-800.

Sec. 22-7. Direction of traffic by deputized persons.

The chief of police may deputize persons over the age of 18 years without the power of arrest for the limited purposes of directing traffic in accordance with Code of Virginia, § 46.2-1309 during periods of heavy traffic or congestion; provided, that such persons first receive training as the chief of police determines necessary to fully acquaint such persons with the techniques of traffic control. Any person who is deputized as hereinabove provided shall at all times while engaged in traffic control wear a distinctive police uniform, safety vest or a white reflectorized belt which crosses both the chest and back above the waist.

(Code 1973, § 23-24; Code 1988, § 22-13; Ord. No. 1989-83, 9-26-1989)

Sec. 22-8. Direction of traffic by fire officers.

Officers of the fire department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire, and while so acting, shall have all the authority of peace officers.

(Code 1973, § 23-6; Code 1988, § 22-14)

Sec. 22-9. Retailers of certain motorcycles to furnish statements to vendees.

- (a) Every retailer of motorcycles having a seven-horsepower or less rating shall provide written statements to every vendee regarding registration and licensing of such vehicles and the requirement of a motor vehicle driver's license.
- (b) Persons violating the provisions of this section shall be guilty of a class 4 misdemeanor.

(Code 1973, § 21-162; Code 1988, § 22-17)

Cross reference(s)—Penalty for class 4 misdemeanor, § 1-11.

Sec. 22-10. Registration of mopeds.

All mopeds operated on the streets of the city shall be registered in the same manner as required for bicycles under the provisions of article II of chapter 5 of this Code, and mopeds and their owners and operators shall be subject to all provisions of such article mutatis mutandis. A violation of any such provision shall be subject to the penalties as prescribed in section 5-2 of this Code.

(Code 1988, § 22-18)

State law reference(s)—Authority of city as to licensing of mopeds, Code of Virginia, § 152-1720.

Sec. 22-11. Motorized push scooters; voluntary registration; fee; destruction, etc., of serial number prohibited.

- (a) The serial numbers of motorized push scooters may be registered with the chief of police or his designee. There shall be a one-time registration fee as set forth in appendix A to this Code charged to each owner.
- (b) No person shall willfully remove, destroy, mutilate, or alter the serial number of any motorized push scooter or knowingly possess a motorized push scooter, the serial number of which has been removed, destroyed or mutilated.

(Ord. No. 2005-104, § 2, 11-22-2005)

Sec. 22-12. Parades, public assemblies and expressive activities; permits.

- (a) *Purpose.* Pursuant to the authority granted to the city by the Code of Virginia and the city charter, this section is adopted in order to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, to ensure free and safe access to public areas, and otherwise to regulate and control the time, place and manner of activities that would otherwise threaten the public health, safety, and welfare, while also encouraging the exercise of rights under the First Amendment of the United States Constitution (First Amendment) in the city.
- (b) *Definitions.* The following terms shall have the meanings set out herein, unless the context in which they occur clearly indicates otherwise:
- (1) City-sponsored event means a planned event which the city sponsors or is otherwise affiliated with for the primary purpose of providing recreational benefits for citizens and not for the purpose of providing a forum for expressive activities. City-sponsored events include the Memorial Day Parade, Bunny Hop Race, Portsmouth Farmer's Market, Seawall Art Show, Safe Trick or Treat, Fish Bowl Parade, Olde Towne Ghost Walk, Buffalo Rider Parade of Horses, and any other event which is designated as a city-sponsored event by the city manager.
 - (2) Event means a parade, public assembly or expressive activity.
 - (3) Expressive activity means any activity protected under the First Amendment other than a parade or public assembly, addressed below, including, but not limited to, leafleting.
 - (4) Parade means any march, demonstration, procession or motorcade consisting of persons, animals, or vehicles, or a combination thereof, upon any traditional public forum within the city that interferes with or is likely to interfere with the normal flow or regulation of pedestrian or vehicular traffic within said forum.
 - (5) Public assembly means any meeting, demonstration, picket line, rally or gathering of any kind that occupies any traditional public forum within the city and interferes with or is likely to interfere with the normal flow or regulation of pedestrian or vehicular traffic or with the customary public usage of said forum.
 - (6) Spontaneous event means an unplanned coming together of persons, animals or vehicles in a parade or public assembly in a traditional public forum which was not contemplated beforehand by any participant therein, and which is caused by or in response to unforeseen circumstances or events.
 - (7) Traditional public forum means, pursuant to the public forum doctrine under the First Amendment, as created and revised by the courts, those government-owned spaces open to the public generally, such as many streets, sidewalks and parks, that have by long tradition and government fiat been devoted to parades, public assemblies and expressive activities generally.
- (c) *Permit required.*
- (1) It shall be unlawful for any person to conduct or participate in a parade, public assembly or expressive activity in any traditional public forum of the city without a written permit issued in accordance with the provisions of this section.
 - (2) The provisions of this section shall not apply to the following when occurring in a traditional public forum:
 - a. Spontaneous events;

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- b. Recreational activities, including jogging or walking, that do not require closing public streets or other public rights-of-way;
 - c. Footraces and bicycle races are not subject to this section 22-12 but are subject to section 22-12.1.
 - d. Funeral processions of vehicles with appropriate lights and/or escorts;
 - e. 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;
 - f. The United States Army, Navy, Air Force and Coast Guard, the military forces of the state, and the employees of the city when acting within the scope of their employment; or
 - g. A governmental agency or agencies acting within the scope of its functions.
 - h. A parade, public assembly or expressive activity conducted in some traditional public forum other than a street and involving less than thirty (30) people.
- (3) 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.
- (d) *Application.*
- (1) A written application for a permit shall be filed as follows:
- a. When a parade, public assembly or expressive activity will require the blocking or temporary closure of all or any part of one or more major streets of the city, or one or more streets in the downtown area, and the detouring of motor vehicle traffic, and will require the presence of significantly more police officers than are normally assigned to the area for traffic control, traffic diversion and/or the maintenance of order, a written application for the permit shall be filed with the city manager or city manager designee at least thirty (30) calendar days prior to the occurrence, and shall include the information described under subsection (d)(1)(C) below. The reasons for this time requirement are that additional time is needed by city officials to coordinate with all involved departments; to determine previously scheduled uses of the areas or streets; to determine the need and arrange for traffic control signages and devices; to notify residents and businesses; to arrange for the rescheduling and/or recall of police officers; and to alter existing parking regulations. Applicants should allow additional time for correction of any deficiencies and first time events.
 - b. For all parades, public assemblies or expressive activities other than those described in subsection (d)(1)(A) above, a written application for the permit shall be filed with the city manager or city manager designee at least ten business (10) days, excluding legal holidays, prior to the occurrence, and shall include the information described in subsection (d)(1)(C) below. Applicants should allow additional time for correction of any deficiencies and first time events.
 - c. Written applications shall include all of the following information:
 - (i) The name, address and telephone number of the person requesting the permit;
 - (ii) The name and address of the organization or group the applicant is representing;
 - (iii) The name, address and telephone number of a person who will act as the leader or chairman of the group at the site, and who will be responsible for the conduct of the group;
 - (iv) The type of event planned, including a description of the activities planned during the event;
 - (v) The date and time (start and ending) of the event;

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- (vi) If the event is a public assembly or expressive activity, the specific location or locations of it;
 - (vii) If the event is a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;
 - (viii) The approximate number of people, animals and vehicles that will constitute the event, and a description of any animals or vehicles involved;
 - (ix) A statement as to whether the event 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;
 - (x) A description of any recording equipment, sound-amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the event; and
 - (xi) A statement, if applicable, that the applicant claims an exemption from the service fee and insurance requirements of subsection (e) below, and such other information as the city manager or city manager 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.

(e) *Fees and insurance.*

- (1) All applicants shall pay a nonrefundable fee to cover the administrative costs of processing the permit request upon submission of their application.
- (2) If the application is pursuant to subsection (d)(1)(A) above, and the application is not exempt from these fees pursuant to subsection (e)(4) below, the applicant, prior to the issuance of a permit, shall:
 - a. Pay the charges for all services to be provided the applicant in accordance with a schedule of service costs established by regulations of the city manager; and
 - b. Procure and maintain in full force and effect during the term of the permit a policy of insurance covering general liability and property damage in an amount commensurate with the risk as determined by the city manager or city manager designee, which policy shall include the city, its boards, officers, agents and employees as additional insureds.
- (3) No application shall be considered complete until all required fees are paid.
- (4) Applicants may request an exemption from the service fees and insurance requirements of this section for noncommercial parades, public assemblies and expressive activities subject to the protection of the First Amendment. Within five (5) days, excluding Saturdays, Sundays and legal holidays, after receiving a permit request claiming an exemption from the service fees and insurance requirements pursuant to this subsection, the city manager or city manager designee shall notify the applicant if his claim of exemption is denied. The city manager or city manager designee shall grant or deny a claim of exemption under this section with the advice and consent of the city attorney.
- (5) City-sponsored events are exempt from the requirements of this subsection (e).

(f) *Issuance or denial of permit.*

- (1) The city manager or city manager designee, upon receipt of an application, shall promptly circulate it to the chief of police, the fire chief, the director of parks, recreation and leisure services if the proposed location is a park, city engineer and the director of public works, or their designees, and to any other city departments with relevant responsibilities.
- (2) The city manager or city manager designee shall issue the permit within fifteen (15) business days after receipt of the completed application for a parade, public assembly or expressive activity described in subsection (d)(1)(A) above, and within five (5) business days after receipt of an application for a

parade, public assembly or expressive activity described in subsection (d)(1)(B) above, if it is determined that the proposed parade, public assembly or expressive activity will not endanger the public health, welfare or safety, based upon its meeting all of the following requirements:

- a. The time, duration, route and size of the event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic;
 - b. The time, duration, route and size of the event will not require the 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;
 - c. The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the event in conformity with such permit;
 - d. The conduct of the event 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;
 - e. The event will not interfere with another event for which a permit has been granted;
 - f. The event proposed will not violate, and will conform with all applicable regulations and laws governing the activities of the proposed event; and
 - g. The applicant has, unless exempted, met all requirements concerning fees and insurance, including any unpaid balance of fees owed by applicant from a prior permitted event and any liability incurred by the city as a direct and proximate result of applicant's failure to obtain and maintain the insurance required hereunder for any prior permitted event.
- (3) The city manager or city manager designee shall not issue the permit if any information supplied by the applicant is false or intentionally misleading.
 - (4) The city manager or city manager designee shall have the authority to and shall make reasonable efforts to consider an application hereunder which is not filed within the applicable deadlines before the proposed date of the parade, public assembly or expressive activity. The city manager or city manager designee shall waive the deadline if, after due consideration of the date, time, place and nature of the event, the anticipated number of participants and the city services required in connection with the event, and where good cause is otherwise shown, the city manager or city manager designee determines that the waiver of the permit application deadline will not present an undue hazard to public safety.
 - (5) If the city manager or city manager designee denies an application, she shall promptly attempt to call and will promptly mail and/or email to the applicant a notice of her action, stating the reasons for her denial of the permit.
 - (6) If two (2) or more applications are submitted requesting a permit under this section for a parade, public assembly or expressive activity to be used at the same date, time and place, the application first filed shall be granted if it meets the requirements of this section.
 - (7) Nothing in this section shall permit the city manager or city manager designee to deny a permit or waive a required fee 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.
 - (8) The issuance of a permit under this section shall not excuse the applicant from any other license, inspection or permit requirements that may be otherwise necessary for the proposed event, such as business licenses, right of way occupancy permits, land use permits, special event license, electrical permits, building permits and health permits.

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- (g) *Alternative permit.* The city manager or city manager designee shall have the authority to modify the route, time and place of a parade, public assembly or expressive activity to facilitate crowd control in the interest of relieving congestion and promoting public safety, provided that the applicant's rights under the First Amendment are not denied thereby. The city manager or city manager designee may temporarily close any street in the city affected by a parade when in her judgment the public safety so requires.
- (h) *Notice to various officials.* Immediately upon the issuance of a permit under this section, the city manager or city manager designee shall send a copy thereof to the following:
- (1) The chief of police;
 - (2) The fire chief;
 - (3) The city engineer;
 - (4) The director of public works; and
 - (5) The director of parks, recreation and leisure services if the location is a park.
- (i) *Compliance with directions and standards.* Every person to whom a permit is issued under this section shall comply with all permit terms and conditions and with all applicable regulations and laws. The parade, public assembly or expressive activity applicant or other person heading or leading the event shall carry the permit upon his person during the conduct of the event, and show the permit when requested to do so.
- (j) *Revocation of permit.* The city manager or city manager designee shall have the authority to revoke any permit issued pursuant to this section if any information supplied by the applicant is discovered to be false or intentionally misleading, or 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.
- (k) *Public conduct during events.*
- (1) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade, public assembly or expressive activity or with any person, vehicle or animal participating or used in such an event.
 - (2) *Driving through parades.* No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
 - (3) *Parking on parade route or the area of a public assembly or expressive activity.* The city manager or city manager 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 parade or an area in which a public assembly or expressive activity will occur. The city manager or her designee, shall post signs 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 section.
- (l) *Parades in street; relocation of parades from the street to the sidewalk.*
- (1) Parades consisting of thirty (30) or fewer people and no vehicles shall be confined to the sidewalks and shall not enter the street except for the purpose of crossing from one sidewalk to another.
 - (2) Parades for which a permit to parade in the street has been issued shall be converted to sidewalk parades on the order of the police officer in charge at the scene if, at the time designated for the start of the parade in the permit, the officer in charge determines:
 - a. There are no vehicles prepared to participate in the parade; and

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- b. There are thirty (30) or fewer people prepared to participate in the parade.
- (3) Every person to whom a parade permit is issued and all participants therein shall obey the instructions converting a street parade to a sidewalk parade if the police officer in charge at the scene directs as though those were the terms and conditions of the original written permit.
- (m) *Nonpublic forums.* Parades, public assemblies and expressive activities are prohibited in nonpublic forums because they are not compatible with the purpose, facts and circumstances of such properties. However, by special written permit the city manager or city manager designee may allow such an event in a nonpublic forum when under all the facts and circumstances it is determined that the specific event and the specific nonpublic forum are not incompatible. Decisions concerning requests for access to nonpublic forums by special written permit shall be made only with the advice and consent of the city attorney to ensure any denials or restrictions are viewpoint neutral and otherwise consistent with the public forum doctrine under the First Amendment of the United States Constitution, as created and revised by the courts.
- (n) *Severability.* If any portion of this section is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this section, and such invalid provisions or portions thereof shall be severable.
- (o) *Penalty.* Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor. (Code 1973, § 23-15; Code 1988, § 22-19; Ord. No. 1992-35, § 1, 5-12-1992; Ord. No. 2013-01, § 1, 1-8-2013; Ord. No. 2017-14, § 1, 3-14-2017; Ord. No. 2018-64, § 1(Exh. A), 7-24-2018)

Editor's note(s)—Ord. No. 2018-64, § 1(Exh. A), adopted July 24, 2018, renamed § 22-12 from "permits for parades and other special events" to "parades, public assemblies and expressive activities; permits."

Sec. 22-12.1. Footraces or bicycle races require permit.

- (a) It shall be unlawful for any person to conduct a footrace or bicycle race upon any of the streets of the city or other public places of the city, without obtaining a permit therefor from the city manager. The application for the permit shall be submitted sixty (60) days in advance of the event with the city manager or city manager designee and shall contain information as to the date and time of the race and the public streets and places upon which the race is to be conducted and such other information as shall be required by the city manager or city manager designee. The applicant shall deposit the sum of one hundred dollars (\$100.00) for processing the application and in addition thereto a sum sufficient to cover the costs of city personnel, equipment and material which is utilized in connection with conducting the race; provided, however, that said sums shall not be charged to a permit applicant applying to sponsor an event on city-owned property upon which the city collects an entry or admission fee.
- (b) The city manager shall grant the permit, unless the city manager is of the opinion that such footrace or bicycle race on the streets or other public places in the city will unreasonably interfere with the public use thereof or will tend to disturb or imperil the public safety or the public peace, in which case the permit shall be denied. The city manager may temporarily close any street in the city affected by a footrace or bicycle race when in the city manager's judgment the public safety so requires.
- (c) Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor. (Ord. No. 2018-64, § 1(Exh. A), 7-24-2018)

Sec. 22-13. Identification of funeral processions.

All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display use of high beam headlights and hazard lights and such other identification as the city manager may prescribe.

(Code 1973, § 23-16; Code 1988, § 22-20)

State law reference(s)—Identification of cars in funeral procession, Code of Virginia, § 46.2-828.

Sec. 22-14. Escort services for funeral processions.

The chief of police is authorized to furnish official escorts for funeral processions. The fee for such escort service shall be as set forth in appendix A to this Code. Nothing contained herein shall be construed as requiring such escort service to be furnished by the city.

(Code 1973, § 23-16.1; Code 1988, § 22-21)

State law reference(s)—Authority to provide police escort and charge a fee, Code of Virginia, § 46.2-828.

Sec. 22-15. Boarding or alighting from moving vehicle.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Code 1973, § 23-17; Code 1988, § 22-22)

Sec. 22-16. Washing, polishing or greasing vehicle on highway, sidewalk.

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 1973, § 23-18; Code 1988, § 22-23)

Sec. 22-17. Repair, dismantling or painting motor vehicle on highway or sidewalk.

No person shall repair, dismantle, paint or repaint any motor vehicle, or any part thereof, on any highway or sidewalk; provided, however, that this section shall not be construed as prohibiting such emergency repairs as may be necessary to render a disabled motor vehicle operative where such disabled motor vehicle is so located as to constitute a traffic hazard.

(Code 1973, § 23-19; Code 1988, § 22-24)

Sec. 22-18. Distribution of handbills, etc., solicitation of contributions, and sale of merchandise or services on highways, public roadways, and medians prohibited.

- (a) The following acts are prohibited:
- (1) The distribution of handbills, leaflets, bulletins, literature, advertisements, or similar materials to the occupants of motor vehicles on highways or on public roadways and medians located within the city;
 - (2) The solicitation of any nature from the occupants of motor vehicles on highways or on public roadways and medians located within the city; or
 - (3) The sale of merchandise or services or the attempted sale of merchandise or services to the occupants of motor vehicles on highways or on public roadways and medians located within the city.
- (b) Any person violating the provisions of subsection (a) hereof shall be guilty of a traffic infraction.

(Ord. No. 2010-62, § 1, 7-27-2010)

Secs. 22-19—22-70. Reserved.

ARTICLE II. LOCAL VEHICLE LICENSE⁴

Sec. 22-71. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a class 4 misdemeanor.

(Code 1988, § 22-71; Ord. No. 1997-18, § 1, 3-25-1997)

Sec. 22-72. Levy and purpose of fee.

- (a) For each year beginning with January 1 thereof and ending with the following December 31 until otherwise changed, there is hereby levied and there shall be collected from every person owning a motor vehicle, trailer or semitrailer, which is normally garaged, stored or parked within the city limits, a license fee on such motor vehicle, trailer or semitrailer at the rates set forth in this article. In the event it cannot be determined where a vehicle is normally garaged, stored or parked, or if the owner is a student attending an institution of higher education, the situs for the purpose of imposing the license fee shall be the domicile of the owner of the vehicle.
- (b) The revenues derived from the collection of the license fee shall be for the purpose of providing funds for the operation of the city government, the payment of the city debt, and for other municipal purposes.

(Code 1973, § 23-465; Code 1988, § 22-72; Ord. No. 1991-75, § 1, 7-9-1991; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-73. Fee additional to other license taxes.

The license fee imposed by this article shall be in addition to any other city license tax.

(Code 1973, § 23-466; Code 1988, § 22-73; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-74. License fee for vehicles designed and used for transportation of passengers— Schedule.

- (a) The annual license fee for motor vehicles, trailers and semitrailers designed and used for the transportation of passengers upon the streets of the city shall be as set forth in appendix A to this Code for the following:
 - (1) For each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less and an additional amount for each passenger car or motor home which weighs in excess of 4,000 pounds; provided, such passenger car or motor home is not used for the transportation of

⁴Charter reference(s)—Authority of city as to vehicle licenses, § 2.02.

Cross reference(s)—Registration of bicycles, § 5-26 et seq.; registration of pleasure boats, § 6-31 et seq.; licenses generally, ch. 20.

State law reference(s)—Authority of city as to vehicle license fee, Code of Virginia, § 46.2-752 et seq.

passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a driver.

- (2) Per 100 pounds of weight or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than ten adult persons including the driver if such private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a driver. In no case shall the fee be less than the amount set out in appendix A to this Code if the vehicle weighs 4,000 pounds or less or the amount set out in appendix A to this Code if the vehicle weighs in excess of 4,000 pounds.
 - (3) Per 100 pounds of weight or major fraction thereof for a school bus, public or private; provided that in no case shall the fee be less than the amount set out in appendix A to this Code if the vehicle weighs 4,000 pounds or less or the amount set out in appendix A to this Code if the vehicle weighs in excess of 4,000 pounds.
 - (4) For each trailer or semitrailer designed for use as living quarters for human beings.
 - (5) Per 100 pounds of weight or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a driver for the transportation of passengers. An additional fee of as set forth in appendix A to this Code shall be charged if the vehicle weighs in excess of 4,000 pounds. This subsection does not apply to vehicles used as common carriers.
 - (6) For a taxicab or other vehicle kept for rent or hire and operated with a driver for the transportation of passengers and which is operated or should be operated under permits issued by the state corporation commission as required by law and this Code. An additional fee of as set forth in appendix A to this Code shall be charged if the vehicle weighs in excess of 4,000 pounds. This subsection does not apply to vehicles used as common carriers.
 - (7) For a motorcycle, with or without a sidecar.
 - (8) For a bus used exclusively for transportation to and from Sunday School or church, for the purpose of divine worship; provided that if the empty weight of the vehicle exceeds 4,000 pounds.
 - (9) Per 100 pounds of weight or major fraction thereof for other passenger-carrying vehicles.
- (b) The license fees required by subsections (a)(5) and (a)(6) of this section shall not be required for the operation of any motor vehicle with a normal seating capacity of not more than six adult persons including the driver while used not for profit in transporting persons who, as a common undertaking, bear or agree to bear all or a part of the actual costs of such operation, or while used by a lessee renting or hiring such vehicle for a period of 12 months or longer under a written lease or agreement. Every such motor vehicle shall be treated as a private passenger car for which the annual license fee shall be as prescribed in subsection (a)(1) of this section.

(Code 1973, § 23-473; Code 1988, § 22-74; Ord. No. 1997-32, § 1, 5-6-1997; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-75. Same—Weights used in computation.

In computing the license fees required by section 22-74 to be based upon the weight of the vehicle, the manufacturer's shipping weight or scale weight shall be used.

(Code 1973, § 23-471; Code 1988, § 22-75; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-76. Same—Burden of proof.

The applicant for the licensing of a motor vehicle, trailer or semitrailer designed and used for the transportation of passengers upon the streets of the city, the fee upon which is set out in section 22-74, shall bear the burden of proof that the vehicle for which licensing is sought is entitled by weight, design and use to be licensed at the rate contended for by the applicant to the commissioner of the revenue or to his authorized agent.

(Code 1973, §§ 23-470, 23-472; Code 1988, § 22-76; Ord. No. 1988-41, § 1, 5-16-1988; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-77. Fees for vehicles not displaying current license.

The annual license fee for motor vehicles not displaying current license plates shall be as set forth in appendix A to this Code. This fee shall not apply to those individuals exempted from the requirements of displaying such license plates under the provisions of the Code of Virginia or to those motor vehicles in a public dump, in an automobile graveyard, as defined in Code of Virginia, § 33.1-348, or in the possession of a licensed junk dealer or licensed motor vehicle dealer. This fee shall, in addition, not apply to any vehicle which is stored on private property for a period not in excess of 60 days for the purpose of removing parts for the repair of another vehicle. This fee shall also not apply to any vehicle being held or stored by or at the direction of any governmental authority, to any vehicle owned by a member of the armed forces on active duty, or to any vehicle regularly stored within a structure.

(Code 1973, § 23-470.1; Code 1988, § 22-77; Ord. No. 1988-59, § 1, 6-14-1988; Ord. No. 1989-83, § 1, 9-26-1989; Ord. No. 2001-10, § 1, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005)

Sec. 22-78. License fee for vehicles not designed or used for transportation of passengers.

Except as otherwise provided, the license fee to be paid by the owner of a motor vehicle not designed and used for the transportation of passengers shall be an amount to 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 and licensed, according to the schedule of taxes herein set forth. For the gross weight for which any such vehicle is registered and licensed, there shall be paid to the city the fee indicated in the following schedule immediately opposite the weight group and under the classification established by the provisions of Code of Virginia, § 46.2-711(B) into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed. The fee for a vehicle not designed or used for transportation of passengers, as prescribed herein, shall be as set forth in appendix A to this Code if the gross weight is 4,000 pounds or less and as set forth in appendix A to this Code if the gross weight is 4,001 pounds through 6,500 pounds, and as set forth in appendix A to this Code for a motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

(Code 1973, § 23-474; Code 1988, § 22-78; Ord. No. 1989-83, 9-26-1989; Ord. No. 1990-33, § 1, 5-15-1990; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-79. License fees on certain trailers.

The annual license fee on a one- or two-wheel trailer of a cradle, flatbed or open pickup type which has a body width not greater than the width of the motor vehicle to which it is attached at any time of operation, which is pulled or towed by a passenger car or station wagon, or a pickup or panel truck having an actual gross vehicle weight not exceeding 5,000 pounds, and which is used for carrying property not exceeding 1,500 pounds at any one time, shall be as set forth in appendix A to this Code. Nothing herein shall be construed as applying to the fee

for trailers or semitrailers designed for use as living quarters for human beings, or to those trailers or semitrailers operated under lease or rental agreement, or operated for compensation.

(Code 1973, § 23-475; Code 1988, § 22-79; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-80. Combinations of tractor trucks and semitrailers, etc.

- (a) In the case of a combination of a truck or tractor truck and a trailer or semitrailer, each vehicle constituting a part of such combination shall be registered as a separate vehicle, but, for the purpose of determining that gross weight group into which any such vehicle falls pursuant to section 22-78, 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 license fee for a trailer or semitrailer constituting a part of such combination shall be as set forth in appendix A to this Code; provided, however, if such trailer or semitrailer exceeds a gross weight of 4,000 pounds such fee shall be as set forth in appendix A to this Code.
- (b) In determining the license fee to be paid for a truck or tractor truck constituting a part of such combination the fee shall be assessed on the total gross weight and the tax per 1,000 pounds applicable to the gross weight of the combination when loaded to the maximum capacity for which it is registered and licensed. There shall be no deduction from this fee for the fee on the trailer or semitrailer in the combination.

(Code 1973, § 23-476; Code 1988, § 22-80; Ord. No. 2001-10, § 1, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005)

Sec. 22-81. State registration card prerequisite to licensing.

Each applicant for a license under this article shall present to the commissioner of the revenue his state registration card within 30 days of purchase or relocation to the city before a license application can be issued to him.

(Code 1973, § 23-467; Code 1988, § 22-81)

Sec. 22-82. Date assessment and collection of fee to begin.

The commissioner of the revenue shall begin to assess and the city treasurer will collect the license fees imposed under this article beginning January 1 of each year.

(Code 1973, § 23-469; Code 1988, § 22-83; Ord. No. 1994-70, § 1, 6-28-1994; Ord. No. 2001-10, § 1, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005)

Sec. 22-83. Proration of license fee.

In the event of the registration with the state department of motor vehicles of any motor vehicle, trailer or semitrailer on or after February 1 in any license year, an annual license fee shall be paid which shall be equal to one-twelfth of the applicable annual license fee prescribed in this article, computed to the nearest cent, multiplied by the number of months remaining in the license year.

(Code 1973, § 23-477; Code 1988, § 22-84; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-84. Penalty for late payment of fee.

If any license fee imposed by this article is not paid by June 5th of any license year, or in case of a motor vehicle, trailer, or semitrailer purchased or acquired thereafter, within 30 days of the date of purchase or acquisition of same, there shall be added to such license fee a penalty of ten percent of the amount of the license fee or \$10.00, whichever is greater, to be assessed and paid along with the license fee as part thereof. No penalty shall exceed the amount of the unpaid license fee, shall accrue at a rate of ten percent per annum on the first day following the due date and each month thereafter until paid in full.

(Code 1973, § 23-478; Code 1988, § 22-85; Ord. No. 1994-70, § 2, 6-28-1994; Ord. No. 2001-10, § 1, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005; Ord. No. 2005-30, § 1, 4-25-2006)

Sec. 22-85. Refund of erroneously paid fee.

- (a) Any person who feels that he has erroneously paid a license fee required by this article for any motor vehicle, trailer, or semitrailer may, within 90 days of the date on which he paid such fee, make application, in writing, to the commissioner of the revenue for a refund of the amount of such fee erroneously paid. An application that is not timely made will not be considered.
- (b) If the commissioner of revenue is satisfied that the license fee has been erroneously paid, he shall certify to the city treasurer that such payment was erroneous. The city treasurer is authorized to refund the erroneous payment to the applicant.

(Code 1973, § 23-479.1; Code 1988, § 22-87; Ord. No. 1995-81, § 1, 6-27-1995; Ord. No. 2001-10, § 1, 2-27-2001)

Sec. 22-86. Refund for unused portion of license fee.

- (a) Any person paying a license fee on a vehicle under the requirements of this article shall be entitled to a refund upon furnishing proof, satisfactory to the commissioner of the revenue, of disposal of the vehicle or of the change of the vehicle's garaging to another jurisdiction.
- (b) The amount to be refunded to such person shall be one-half of the amount paid if disposed of or garaged in another jurisdiction between January 1 and June 30 of the year for which such license fee was paid and one-fourth of such amount if between July 1 and September 30 of such license year. No refund shall be made after September 30 of such year.
- (c) Upon satisfaction that a person is entitled to receive a refund, the commissioner of the revenue shall certify the correct refund amount to the city treasurer who shall mail such amount to the person entitled to the refund.

(Code 1988, § 22-87; Ord. No. 1997-34, § 1, 5-13-1997; Ord. No. 2001-10, § 1, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005)

Sec. 22-87. License fees for vehicles owned by nonresident military personnel.

- (a) The commissioner of the revenue is authorized to remove, without payment any license fee imposed by this article, on any person who is on active military duty and is in this city solely by reason of military orders and whose legal residence or domicile is a state other than Virginia, for each motor vehicle, trailer or semitrailer of which he is the sole owner and which is normally garaged, stored or parked within the city limits, provided such motor vehicle, trailer or semitrailer is registered and titled in the commonwealth solely in such person's name or a Virginia license has been purchased for such vehicle. In the event it cannot be determined where

such vehicle is normally garaged, stored or parked, situs, for the purpose of this section, shall be the city when the vehicle is registered with the state department of motor vehicles, utilizing a mailing address in the city.

- (b) The burden of proof shall rest with the owner of the motor vehicle, trailer or semitrailer to present sufficient evidence in the form of a current leave and earnings statement to the commissioner of the revenue indicating that the sole owner of the vehicle is on active military duty, is in the city solely by reason of military orders and his legal residence or domicile is a state other than Virginia. If such person fails to do so, he shall be subject to the license fees imposed by this article.
- (c) The payment of a license fee as provided in this section is essential to the functioning of the vehicle licensing laws of the city.

(Code 1973, § 23-483; Code 1988, § 22-92; Ord. No. 2001-10, § 1, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005)

Sec. 22-88. License fee for vehicle owned by disabled veteran.

No license fee shall be charged for one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the department of motor vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed in Code of Virginia, § 46.2-739.

(Code 1988, § 22-93; Ord. No. 2001-10, § 2, 2-27-2001; Ord. No. 2005-61, § 1, 7-26-2005)

Secs. 22-89—22-119. Reserved.

ARTICLE III. VEHICLE EQUIPMENT⁵

Sec. 22-120. Special permits for traction engines and tractors.

The city manager may issue special permits limited to such time as he may deem proper, authorizing the operation upon a highway of traction engines or tractors having movable tracks with traverse corrugations upon the periphery of such movable tracks. A fee as set forth in appendix A to this Code shall be charged for each permit at the time of issuance.

(Code 1973, § 23-398; Code 1988, § 22-120)

Charter reference(s)—Authority of council to establish and collect fees and charges, § 2.14.

State law reference(s)—Authority to issue special permits, Code of Virginia, § 46.2-1046.

Secs. 22-121—22-236. Reserved.

ARTICLE IV. VEHICLE SIZE, WEIGHT AND LOAD; COMBINATIONS OF VEHICLES

⁵Cross reference(s)—Special equipment requirements for vehicles used for sale of ice cream on streets, § 15-102.

DIVISION 1. GENERALLY

Sec. 22-237. Maximum width—Generally.

- (a) No vehicle, including any load thereon, but excluding the mirror required by Code of Virginia, § 46.2-1082 and any warning device installed on a school bus pursuant to Code of Virginia, § 46.2-1090, shall exceed a total outside width as follows:
 - (1) Passenger bus operated in the city when authorized under Code of Virginia, § 46.2-1300: 102 inches.
 - (2) School buses: 100 inches.
 - (3) Vehicles hauling boats or other watercraft: 102 inches.
 - (4) Other vehicles: 102 inches.
- (b) Notwithstanding subsection (a) of this section, a travel trailer as defined in Code of Virginia, § 46.2-1900 or a motor home may exceed 102 inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For the purposes of this subsection, "appurtenance" includes an awning and its support hardware and any appendage that is installed by the manufacturer or dealer intended to be an integral part of a motor home or travel trailer, but does not include any item that is temporarily attached to the exterior of the vehicle by the vehicle's owner for the purposes of transporting the item from one location to another.

(Code 1973, § 23-520; Code 1988, § 22-237; Ord. No. 1994-72, § 1, 6-28-1994)

State law reference(s)—Authority to increase width of certain vehicles, Code of Virginia, § 46.2-1105.

Secs. 22-238—22-266. Reserved.

DIVISION 2. PERMIT FOR OVERSIZE AND OVERWEIGHT VEHICLES⁶

Sec. 22-266.1. Permits for excessive size and weight generally; penalty.

- (a) *Required.* A permit shall be required for the operation or movement of any vehicle within the city, whether laden or without load, of a size or weight, exceeding the maximums specified in Code of Virginia, § 46.2-100 et seq. Application for such permit shall be made in writing on a form provided by the city manager or his designee. The application shall show axle spacing and weight displacement and shall contain sketches indicating the size and placement of the load. Unless otherwise provided herein, the permit shall designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the city manager or his designee.

⁶State law reference(s)—Permit for oversize and overweight vehicles, Code of Virginia, §§ 46.2-1101, 46.2-1131, 46.2-1135; authority to issue excessive size and weight permits, Code of Virginia, § 46.2-1139.

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- (b) *Fees.* The fee for obtaining such a permit shall be paid at the time of the application and shall be as set forth in appendix A to this Code for the following:
- (1) *For each single-trip permit.* A single-trip permit shall authorize one trip between the point of origin and the point of destination and shall expire 13 days from the date of issuance. Return trips will be covered under the same permit if requested on the application. The single-trip permit shall be the only permit which may be issued where the operation of the oversize or overweight vehicle requires a police escort. A copy of a valid certificate of automobile liability insurance in the amount of \$500,000.00 must be furnished at the time of application.
 - (2) *Single-trip house move permit.* All such movements shall require an engineering study to be done by the department of public works. The permit fee is due and payable whether a permit is issued or not.
 - (3) *Annual blanket-term permit.* For the first unit. For each additional unit. A blanket-term permit shall authorize travel over all streets and highways in the city except those that prohibit truck traffic or those that have weight restrictions. The permit shall expire 12 months from the last day of the month issued. A copy of a valid certificate of automobile liability insurance in the amount of \$500,000.00 must be furnished at the time of application. Blanket-term permits may be issued for manufactured housing not exceeding a maximum length of 100 feet or width of 14 feet.
 - a. A blanket-term permit shall be issued only for vehicles not exceeding a maximum length of 90 feet or a height of 14 feet or a width of 12 feet or a gross weight of 115,000 pounds, except that a blanket-term permit may be issued for repeated travel over a specified route approved by the city manager or his designee where the vehicle does not exceed a maximum length of 100 feet (manufactured housing, 90 feet) or a height of 14 feet six inches or a width of 12 feet or a gross weight of 115,000 pounds. Holders of blanket permits for manufactured housing must notify the office of the city manager or his designee of intent to move.
 - b. A blanket-term permit shall not be issued to cover any trip which requires a police escort.
 - c. For blanket-term mobile crane permits.
 - (4) *Oversized vehicles.* For each movement of oversized vehicles with a width exceeding 14 feet or a weight exceeding 115,000 pounds. All such movements shall require an engineering study to be performed by the department of public works. The permit fee is due and payable whether a permit is issued or not.
 - (5) *Exceptions to fee assessment.* Fees will not be assessed for permits issued to any office or agency of the United States government or the state or its political subdivisions, provided the vehicle for which the permit is issued is registered in the name of such government, its agency or political subdivision.
- (c) *Surety required.* A surety bond may be required upon individual evaluation of oversized or overweight movements. The amount of the surety to be given will be determined based on the estimated cost of restoring the city's infrastructure should damage occur during the move. Sureties must be posted with the department of public works by either letter of credit, liability bond, cash or cashier's check.
- (d) *Costs of engineering studies.* The estimated costs of any engineering studies for inspections determined to be necessary by the department of public works shall be paid upon filing an application for a permit. Any overage will be refunded within 30 days of the completion of the move. If the estimated engineering fee is not sufficient to cover the costs, the applicant shall pay the difference within 30 days of the billing date. No refund of the cost of an engineering study shall be made where, for any reason, the permit applied for is not issued.
- (e) *Permit in vehicle.* Every permit issued under this section shall be carried in the vehicle to which it refers and shall be available for inspection by any law enforcement or by the city manager or his designee.

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- (f) *Reduced speed.* 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 shall be ten miles per hour slower than the legal speed limit in 55, 45 and 35 miles per hour speed limit zones.
 - (g) *Conformity to legal limits.* No permit shall be issued for any vehicle or load which reasonably can be reduced to the limitations of the size and weight contained in Code of Virginia, so as not to require a permit under this section. The weight and size must be reduced to the absolute minimum and loaded in such a manner that will most nearly conform to legal limits.
 - (h) *Exemption.* No permit shall be required under this section for vehicles exceeding maximum size requirements where such vehicles are exempt from size limitations under the Code of Virginia.
 - (i) *Violation; penalty.* It shall be a class 1 misdemeanor for any person to violate any of the terms of the permit or of this section. In addition, the permit may be revoked for any such violation, upon conviction thereof, absent a showing that the violation was based upon emergency or extenuating circumstances. A permit shall not be reissued within six months of revocation.

(Code 1988, § 22-266.1; Ord. No. 2002-56, § 3, 8-27-2002)

State law reference(s)—Permit for oversize and overweight vehicles, Code of Virginia, §§ 46.2-1101, 46.2-1131, 46.2-1135; authority to issue excessive size and weight permits, Code of Virginia, § 46.2-1139.

Sec. 22-266.2. Police escort for certain overweight and oversize vehicles.

Whenever a special permit is issued by city manager or his designee for overweight and oversize vehicles pursuant to this chapter or to the Code of Virginia, and whenever it is determined that a police escort for such vehicles is required, a fee in the amount as set forth in appendix A to this Code of plus the actual costs of each police officer and equipment so required shall be charged to the holder of such special permit. A police escort shall be required for movement of 14 feet or greater width loads on all two-lane roads.

(Code 1988, § 22-266.2; Ord. No. 2002-56, § 3, 8-27-2002)

Sec. 22-267. Reserved.

Ord. No. 2012-37, § 1, adopted July 24, 2012, repealed § 22-267, which pertained to vehicles hauling cargo in seagoing containers and derived from Code 1973, § 23-528; Code 1988, § 22-267; and Ord. No. 2002-56, § 1, adopted Aug. 27, 2002.

Sec. 22-268. Reserved.

Ord. No. 2012-37, § 1, adopted July 24, 2012, repealed § 22-268, which pertained to concrete mixers and derived from Code 1973, § 23-528; Code 1988, § 22-268; Ord. No. 1994-72, § 1, adopted June 28, 1994; and Ord. No. 2002-56, § 1, adopted Aug. 27, 2002.

Sec. 22-268.1. Reserved.

Ord. No. 2012-37, § 1, adopted July 24, 2012, repealed § 22-268.1, which pertained to vehicles hauling excavated material and derived from Code 1988, § 22-268.1; and Ord. No. 2002-56, § 3, adopted Aug. 27, 2002.

Sec. 22-269. Permit to be carried in vehicle; violation of terms and conditions.

Every permit issued under this division shall be carried in the vehicle to which it refers and shall be open to inspection by any officer. It shall be a traffic infraction for any person to violate any of the terms or conditions of such permit.

(Code 1973, § 23-529; Code 1988, § 22-270)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1139(D).

Sec. 22-270. Weighing vehicles; procedure; shifting loads; unloading excess load; weighing fee; certificate as to accuracy of scales admissible in evidence; penalties.

- (a) Any law enforcement officer, having reason to believe that the weight of a vehicle and load is unlawful, is authorized to weigh the load and the vehicle. If the place where the vehicle is stopped is ten road miles or less from a permanent weighing station, the officer may, and upon demand of the driver shall, require the vehicle to proceed to such station. If the distance to the nearest permanent weighing station is more than ten road miles such vehicle may be weighed by wheel load weighers. Any driver who fails or unreasonably refuses to drive his vehicle to such permanent weighing station or such scales or wheel load weighers upon the request and direction of the officer to do so shall be guilty of a class 4 misdemeanor. The penalty for such violation shall be in addition to any other penalties prescribed for exceeding the maximum weight permitted or for any other violation.
- (b) In the event of such failure or unreasonable refusal, where the officer has reason to believe the vehicle is overweight, the officer may use whatever reasonable means are available to have the vehicle weighed, including the employment of a tow truck to move the vehicle to the weighing area. He may also use whatever means are necessary to reload the vehicle if the load is intentionally dumped. In such a case, any expenses incurred in having the vehicle weighed may be taxed as costs to be imposed upon the operator who failed or unreasonably refused to drive his vehicle to such weighing area, when he has been convicted of such failure or refusal and an overweight violation. In all cases where such failure or refusal or overweight charges are dismissed, payment shall be made from highway funds.
- (c) Should the officer find that the weight of any vehicle and its load is greater than that permitted by law or that the weight of the load carried in or on such vehicle is greater than that which the vehicle is licensed to carry under the provisions of this title, he may require the driver to unload, at the nearest place where the property unloaded may be stored or transferred to another vehicle, such portion of the load as may be necessary to decrease the gross weight of the vehicle to the maximum therefor permitted by this title. Any property so unloaded shall be stored or cared for by the owner or operator of the overweight vehicle at the risk of such owner or operator.
- (d) However, notwithstanding the provisions of Code of Virginia, §§ 46.2-1122—46.2-1127, should the officer find that the gross weight of the vehicle and its load is within limits permitted under this title and does not exceed the limit for which the vehicle is registered, but that the axle weight of any axle of the vehicle exceeds that permitted under this title, the driver shall be allowed one hour to shift his load within or on that same vehicle in order to bring the axle weight within proper limits. However, liquidated damages shall be assessed under section 22-274 based on the weight prior to shifting the load, unless the load can be successfully shifted to bring the vehicle's axle weight within limits permitted under this title by: (i) sliding the axle of the semitrailer or the fifth wheel of the tractor truck, (ii) repositioning the load if the motor vehicle is transporting off-the-road mobile construction equipment, or (iii) adjusting the load if the vehicle is operating on noninterstate highways and qualifies for weight extensions pursuant to Code of Virginia, § 46.2-1129. Such load shifting shall be performed at the site where the vehicle was weighed and found to exceed

allowable axle weight limits. No such load shifting shall be allowed if such load is required to be placarded as defined in Code of Virginia, § 10.1-1450 and consists of hazardous material as defined in Code of Virginia, § 10.1-1400.

- (e) If the driver of an overloaded vehicle is convicted, forfeits bail, or purchases an increased license as a result of such weighing, the court in addition to all other penalties shall assess and collect a weighing fee as set forth in appendix A to this Code from the owner or operator of the vehicle and shall forward such fee to the city treasurer. Upon receipt of the fee, the city treasurer shall allocate the same to the fund appropriated for the administration and maintenance of the police department.
- (f) In any court or legal proceedings in which any question arises as to the calibration or accuracy of any such scales at permanent weighing stations or wheel load weighers, a certificate, executed and signed under oath by the inspector calibrating or testing such device as to its accuracy as well as to the accuracy of the test weights used in such test, and stating the date of such test, type of test and results of testing, shall be admissible when attested by one such inspector who executed and signed it as evidence of the facts therein stated and the results of such testing.

(Code 1988, § 22-271; Ord. No. 2002-56, § 3, 8-27-2002)

Sec. 22-271. Special processing provisions for overweight violations.

Notwithstanding any other provision of law, all violations of any weight limit as provided in this article or any permit issued in accordance with this article or with the Code of Virginia shall be processed in the following manner:

- (1) The officer charging the violation shall serve a citation on the operator of the overweight vehicle. The citation shall be directed to the owner, operator, or other person responsible for the overweight violation as determined by the officer. Service of the citation on the vehicle operator shall constitute service of process upon the owner, operator, or other person charged with the weight violation.
- (2) The officer charging the violation shall cause the citation to be delivered or mailed by first-class mail to the state department of transportation within 24 hours after it is served.
- (3) The owner, operator, or other person charged with the weight violation shall, within 21 days after the citation is served upon the vehicle operator, either make full payment to the department of transportation of the civil penalty, liquidated damages, weighing fee, and processing fee as stated on the citation, or deliver to the department a written notice of his election to contest the overweight charge in court.
- (4) Failure of the owner, operator, or other person charged with the weight violation to timely deliver to the department of transportation either payment in full of the uncontested civil penalty, liquidated damages, weighing fee, and processing fee or a notice of contest of the weight violation shall cause the department to issue an administrative order of assessment against such person. A copy of the order shall be sent by first-class mail to the person charged with the weight violation. Any such administrative order shall have the same effect as a judgment for liquidated damages entered by a general district court.
- (5) Upon timely receipt of a notice of contest of an overweight charge, the department of transportation shall:
 - a. Forward the citation to the general district court named in the citation and
 - b. Send by first-class mail to the person charged with the weight violation, and to the officer who issued the citation, confirmation that the citation has been forwarded to the court for trial.

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- (6) Notices and pleadings may be served by first-class mail sent to the address shown on the citation as the address of the person charged with the weight violation or, if none is shown, to the address of record for the person to whom the vehicle is registered.
 - (7) An alleged weight violation that is contested shall be tried as a civil case. The attorney for the city shall represent the interests of the city. The disposition of the case shall be recorded in an appropriate order, a copy of which shall be sent to the department of transportation in lieu of any record that may be otherwise required by the Code of Virginia. If judgment is for the city, payment shall be made to the court and forwarded to the city treasurer and allocated to the fund appropriated for construction and maintenance of city streets.

(Code 1988, § 22-271.1; Ord. No. 2002-56, § 3, 8-27-2002)

State law reference(s)—Processing overweight vehicle violations, Code of Virginia, § 46.2-1133.

Sec. 22-272. Special overweight seizure provisions; penalty.

- (a) Any law enforcement officer authorized to serve process or weigh vehicles under the provisions of this article may hold an overweight vehicle without an attachment summons or court order, but only for such time as is reasonably necessary to promptly petition for an attachment summons to attach the vehicle.
- (b) After finding reasonable cause for the issuance of an attachment summons, the judicial officer conducting the hearing shall inform the operator of the vehicle of his option to either pay the liquidated damages, civil penalty, weighing fee, and processing fee, or contest the charge through the attachment proceeding. If the operator chooses to make payment, he shall do so to the judicial officer who shall transmit the citation, liquidated damages, civil penalty, weighing fee, and processing fee to the city treasurer for use by the city for the construction and maintenance of streets within the city.
- (c) The city shall not be required to post bond in order to attach a vehicle pursuant to this section. The officer authorized to hold the overweight vehicle pending a hearing on the attachment petition shall also be empowered to execute the attachment summons if issued. Any bond for the retention of the vehicle or for release of the attachment shall be given in accordance with Code of Virginia, § 8.01-553 except that the bond shall be taken by a judicial officer. The judicial officer shall return the bond to the clerk of the appropriate court in place of the officer serving the attachment as otherwise provided in Code of Virginia, § 8.01-554.
- (d) In the event the civil penalty, liquidated damages, weighing fee, and processing fee are not paid in full, or no bond is given by or for the person charged with the weight violation, the vehicle involved in the weight violation shall be stored in a secure place, as may be designated by the owner or operator of the vehicle. If no place is designated, the officer executing the attachment summons shall designate the place of storage. The owner or operator shall be afforded the right of unloading and removing the cargo from the vehicle. The risk and cost of the storage shall be borne by the owner or operator of the vehicle.
- (e) Whenever an attachment summons is issued for a weight violation, the court shall forward to the state department of transportation both a copy of the order disposing of the case and the weight violation citation prepared by the officer but not served.
- (f) Upon notification of the judgment or administrative order entered for such weight violation and notification of the failure of such person to satisfy the judgment or order, in addition to the state department of transportation, any law enforcement officer shall thereafter deny the offending person the right to operate a motor vehicle upon the highways of the commonwealth until the judgment or order has been satisfied.
- (g) When informed that the right to operate the motor vehicle has been denied, the driver shall drive the motor vehicle to a nearby location off the public highways and not move it or permit it to be moved until such

judgment or order has been satisfied. Failure by the driver to comply with this provision shall constitute a class 4 misdemeanor.

- (h) All costs incurred by the city and all judgments, if any, against the city due to action taken pursuant to this section shall be paid from the fund into which liquidated damages are paid.
- (i) Police officers and all other law enforcement officers are vested with the same powers with respect to the enforcement of this article as they have with respect to the enforcement of the criminal laws of the city or of the commonwealth.

(Code 1988, § 22-271.2; Ord. No. 2002-56, § 3, 8-27-2002)

State law reference(s)—Seizure provisions for overweight vehicle violations, Code of Virginia, § 46.2-1134.

Sec. 22-273. Procedures for issuing and serving process in overweight vehicle cases.

- (a) Any officer authorized to enforce overweight vehicle laws may issue a citation for a violation of such laws. Such officer may also serve an attachment summons issued by a judge or magistrate in connection with a weight violation.
- (b) Service of any such citation shall be made upon the driver of the motor vehicle involved in the violation. Such service on the driver shall have the same legal force and validity as if served within the commonwealth personally upon the owner, operator, or other person charged with the weight violation, whether such owner, operator, or other person charged is a resident or nonresident.

(Code 1988, § 22-271.3; Ord. No. 2002-56, § 3, 8-27-2002)

State law reference(s)—Processing overweight vehicle violations, Code of Virginia, § 46.2-1133.

Sec. 22-274. Liquidated damages for violation of weight limits; powers of enforcement officers; forfeiture of vehicle and cargo.

- (a) Any person violating any weight limit as provided in this article or in any overweight vehicle permit issued by the state department of transportation or by the city pursuant to this chapter shall be assessed liquidated damages. The amount of those damages shall be:

<i>Excess Weight Over the Prescribed or Permitted Axle Weight Limits</i>	<i>Assessed Amount Per Pound</i>	<i>Excess Weight Over the Prescribed or Permitted Gross Weight Limit</i>	<i>Assessed Amount Per Pound</i>
4,000 pounds or less	\$0.01 per pound	4,000 pounds or less	\$0.01 per pound
4,001 to 8,000 pounds	\$0.10 per pound	4,001 to 8,000 pounds	\$0.05 per pound
8,001 to 12,000 pounds	\$0.20 per pound	8,001 to 12,000 pounds	\$0.10 per pound
12,001 pounds or more	\$0.30 per pound	12,001 pounds or more	\$0.15 per pound

All gross permit violations shall be assessed \$0.20 per pound over the permitted weight limit.

- (b) If a person has no prior violations under the motor vehicle weight laws, and the excess weight does not exceed 2,500 pounds, the general district court may waive the liquidated damages against such person. Except as provided by Code of Virginia, § 46.2-1138, such assessment shall be entered by the court or by the department of transportation as a judgment for the city, the entry of which shall constitute a lien upon the overweight vehicle. Except as provided by Code of Virginia, § 46.2-1138, such sums shall be paid to the

department or collected by the attorney for the city and forwarded to the city treasurer and allocated to the fund appropriated for the construction and maintenance of city streets.

- (c) If the gross weight of the vehicle exceeds lawful limits by at least 25 percent but no more than 50 percent, the amount of the liquidated damages shall be two times the amount provided for in the foregoing provisions of this section; if the gross weight of the vehicle exceeds lawful limits by more than 50 percent, the amount of the liquidated damages shall be three times the amount provided for in the foregoing provisions of this section. The provisions of this subsection shall not apply to pickup or panel trucks.

(Code 1988, § 22-271.4; Ord. No. 2002-56, § 3, 8-27-2002)

State law reference(s)—Liquidated damages for overweight vehicle violations, Code of Virginia, § 46.2-1135.

Secs. 22-275—22-290. Reserved.

ARTICLE V. OPERATION OF VEHICLES GENERALLY⁷

Sec. 22-291. Bicycles, etc.; riding on righthand side of road; two or more abreast.

Every person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped or motorized push scooter on any street shall keep as close as practicable to the righthand side of the roadway and shall not ride two or more abreast. Persons riding two abreast shall not impede the normal and reasonable movement of traffic, shall move into a single file formation as quickly as practicable when being overtaken from the rear by a faster moving vehicle, and, on a laned roadway, shall ride in a single lane. A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall not travel between two lanes of traffic moving in the same direction, except where one lane is a separate turn lane or a mandatory turn lane.

(Code 1988, § 22-291.1; Ord. No. 2005-104, § 2, 11-22-2005)

State law reference(s)—Use of right side of road, Code of Virginia, § 46.2-802.

Sec. 22-292. mopeds, motorized push scooters; passengers.

No moped or motorized push scooter shall be used to carry more persons at one time other than the number of persons for which it was designed or equipped. A violation of this section shall constitute a traffic infraction punishable by a fine not to exceed \$250.00.

(Code 1988, § 22-325.1; Ord. No. 2005-104, § 2, 11-22-2005)

Sec. 22-293. mopeds, motorized push scooters; use of handlebars; earphones.

No person shall ride a moped or motorized push scooter upon any street without having at least one hand upon the handlebars. No person shall ride a moped or motorized push scooter upon any street while wearing earphones in one or in both ears.

(Code 1988, § 22-328.1; Ord. No. 2005-104, § 2, 11-22-2005)

⁷State law reference(s)—Operation of vehicles, Code of Virginia, § 46.2-800 et seq.

State law reference(s)—Hands on handlebar, Code of Virginia, § 46.2-906; use of earphones, Code of Virginia, § 46.2-1078.

Sec. 22-294. Limitation on use of certain streets by trucks.

It shall be unlawful for any person to drive or operate a motor truck of gross weight of 10,000 pounds or over (empty or loaded) upon any of the following named streets in the city, except for the purposes of receiving loads or making deliveries on portions of the streets listed below:

- Arlington Place* between Airline Boulevard and Frederick Boulevard.
- Belle Street* between Romanesque Street and Phillips Avenue.
- Bellhaven Road* between Deep Creek Boulevard and Finchley Road.
- Booker Street* between Constitution Avenue and Industrial Avenue.
- Brighton Street* between Airline Boulevard and Frederick Boulevard.
- Broad Street* between Bayview Boulevard and Commerce Street.
- Castelwood Road* between Finchley Road and Endicotte Road.
- Cavalier Boulevard* between Chesapeake city limits and Rapidan Street.
- Chancellor Street* between Douglas Avenue and Wool Avenue.
- Chautauqua Avenue* between Detroit Street and Commerce Street.
- City Park Avenue* between Portsmouth Boulevard and Airline Boulevard.
- Cleveland Street* between Lee Avenue and Mount Vernon Avenue.
- Cutherell Street* between Romanesque Street and High Street.
- Dartmouth Street* between Airline Boulevard and Frederick Boulevard.
- Derby Road* between Finchley Road and Endicotte Road.
- Douglas Avenue* between Hartford Street and Commerce Street.
- Douglas Avenue* between Portland Street and North Street.
- Douglas Avenue* between Watson Street and Chancellor Street.
- Dunkirk Street* between Town Point Road and Tyre Neck Road.
- Elmhurst Lane* between Airline Boulevard and Portsmouth Boulevard.
- Evergreen Place* between Portsmouth Boulevard and Deep Creek Boulevard.
- Fayette Street* between Effingham Street and Elm Avenue.
- Finchley Road* between Bellhaven Road and Kelly Drive.
- Florida Avenue* between Bayview Boulevard and Commerce Street.
- Florida Avenue* between Portland Avenue and London Boulevard.
- Freedom Avenue* between Rapida Street and Victory Boulevard.
- Gothic Street* between Turnpike Road and Watson Street.
- Grayson Street* between Orange Street and High Street.

Greenwood Drive between Rotunda Street and Victory Boulevard.

Gust Lane between Victory Boulevard and Claremont Drive.

Hamilton Avenue between Portland Street and North Street.

Hartford Street between High Street and Mount Vernon Avenue.

Harvey Street between Arthur Street and the northern terminus of Harvey Street.

High Street between Effingham Street and Virginia Avenue.

Hodges Ferry Road between Cherokee Road and Portsmouth Boulevard.

Howard Street between Turnpike Road and Wool Avenue.

Jefferson Street between Effingham Street and Elm Street.

Kelly Drive between Deep Creek Boulevard and Raven Street.

LaSalle Avenue between Gilmerton Avenue and Duke Street.

Leslie Drive between Reese Drive and Cedar Lane.

Lincoln Street between Effingham Street and Eighth Street.

London Boulevard between Effingham Street and Crawford Street.

Maple Avenue between Gilmerton Avenue to Duke Street.

Maryland Avenue between Bayview Boulevard and south of Woodrow Street.

Mayflower Road between Portsmouth Boulevard and Hodges Ferry Road.

Mount Vernon Avenue between Bayview Boulevard and London Boulevard.

North Street between Cambridge Avenue and Mount Vernon Avenue.

North Street between Green Street and Crawford Street.

Palmer Street between Effingham Street and Eighth Street.

Phillips Avenue between Turnpike Road and Watson Street.

Potomac Avenue between Vermont Avenue and Glasgow Street.

Prentis Avenue between Gilmerton Avenue and Race Street.

Raven Street between Kelly Drive and Hanbury Avenue.

Reese Drive between Portsmouth Boulevard and Western Branch Boulevard.

Romanesque Street between Ash Street and Belle Street.

Romanesque Street between Turnpike Road and Cutherell Street.

Scott Street between Fauquier Avenue and Airline Boulevard.

Tyre Neck Road between West Norfolk Road and Dunkirk Street.

Vermont Avenue between Potomac Avenue and Glasgow Street.

Watson Street between High Street and Hamilton Avenue.

Wesley Street between Mount Vernon Avenue and Chautauqua Avenue.

West Norfolk Road between Churchland Boulevard and Cedar Lane.

Western Branch Boulevard between Rodman Avenue and High Street.

Wool Avenue between High Street and Howard Street.

(Code 1973, § 23-13; Code 1988, § 22-329; Ord. No. 1990-87, § 1, 8-14-1990; Ord. No. 1991-102, § 1, 11-26-1991; Ord. No. 1995-30, §§ 1, 2, 3-28-1995; Ord. No. 1997-51, § 1, 8-12-1997; Ord. of 10-13-2009, § 1)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1304.

Sec. 22-295. Through truck routes.

All motor trucks 36,000 pounds or over (empty or loaded) passing through the city shall be operated only on those streets designated on the approved through truck route map on file with the traffic engineer, which map is hereby incorporated by reference as a part of this section. Such through truck routes shall not be changed except by amendment hereto.

(Code 1973, § 23-14; Code 1988, § 22-330)

State law reference(s)—Authority to designate through truck routes, Code of Virginia, § 46.2-1304.

Secs. 22-296—22-390. Reserved.

ARTICLE VI. RECKLESS DRIVING; SPEED

Sec. 22-391. General rule as to reckless driving.

Irrespective of the maximum speeds herein provided, any person who drives a vehicle, including a motor vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped or motorized push scooter upon a highway recklessly or at a speed or in a manner so as to endanger life, limb, or property of any person shall be guilty of reckless driving.

(Code 1973, § 23-66; Code 1988, § 22-391; Ord. No. 1992-58, § 1, 6-23-1992; Ord. No. 2005-104, § 1, 11-22-2005)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-852.

Sec. 22-392. Specific instances of reckless driving.

A person shall be guilty of reckless driving who shall:

- (1) Drive a vehicle which is not under proper control or which has inadequate or improperly adjusted brakes upon any highway of this city.
- (2) While driving a vehicle, overtake and pass another vehicle proceeding in the same direction upon or approaching the crest of a grade or upon or approaching a curve in the highway where the driver's view along the highway is obstructed, except where the overtaking vehicle is being operated on a highway having two or more designated lanes of roadway for each direction of travel or on a designated one-way street or highway.
- (3) Drive a vehicle when it is so loaded or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.

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- (4) Pass or attempt to pass two other vehicles abreast, moving in the same direction, except on highways having separate roadways of three or more lanes for each direction of travel, or on designated one-way streets or highways; however, this subsection shall not apply to a motor vehicle passing two other vehicles, in accordance with the provisions of this chapter, when one or both of such other vehicles is a bicycle or moped; nor shall this subsection apply to a bicycle or moped passing two other vehicles in accordance with the provisions of this chapter.
 - (5) Drive any motor vehicle, including any motorcycle, so as to travel abreast of another motor vehicle in a lane designed for one vehicle, or drive any motor vehicle, including any motorcycle, so as to travel abreast of any other vehicle traveling in a lane designed for one vehicle. However, this subsection shall not apply to any validly authorized parade, motorcade or motorcycle escort, nor shall it apply to a motor vehicle traveling in the same lane of traffic as a bicycle or moped.
 - (6) Overtake or pass any other vehicle proceeding in the same direction at any steam, diesel or electrical railway crossing with the words "School Bus" in black letters at least eight inches high on the front and rear thereof. Only school buses which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses.
 - (7) Fail to give adequate and timely signals of intention to turn, partly turn, slow down or stop.
 - (8) Exceed a reasonable speed under the circumstances and traffic conditions existing at the time regardless of any posted speed limit.
 - (9) Drive a motor vehicle upon the highways of this city:
 - a. At a speed of 20 miles per hour or more in excess of the applicable maximum speed limit where the applicable speed limit is 30 miles per hour or less;
 - b. At a speed of 60 miles per hour or more where the applicable maximum speed limit is 35 miles per hour;
 - c. At a speed of 20 miles per hour or more in excess of the applicable maximum speed limit where the applicable maximum speed limit is 40 miles per hour or more; or
 - d. In excess of 80 miles per hour regardless of the posted speed limit.
 - (10) Fail to bring his vehicle to a stop immediately before entering a highway from a side road when there is traffic approaching upon such highway within 500 feet of such point of entrance unless a "Yield Right-Of-Way" sign is posted or, where such sign is posted, fail upon entering such highway to yield the right-of-way to the driver of a vehicle approaching on such highway from either direction.
 - (11) Drive or operate any automobile or other motor vehicle upon any driveway or premises of a church, or school, or of any recreational facilities or of any business property open to the public, or on the premises of an industrial establishment providing parking space for customers, patrons or employees, or upon any street or highway under construction or not yet open to the public, recklessly or at a speed or in a manner so as to endanger the life, limb or property of any person.

(Code 1973, § 23-66; Code 1988, § 22-392; Ord. No. 1991-75, § 2, 7-9-1991; Ord. No. 1992-58, § 1, 6-23-1992)

State law reference(s)—Reckless driving in parking lots, Code of Virginia, § 46.2-864.

Sec. 22-393. Penalty for reckless driving under section 22-391 or 22-392.

- (a) Every person convicted of reckless driving under section 22-391 or 22-392 shall for the first violation be punished for a class 1 misdemeanor.

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- (b) In addition to the penalties for reckless driving prescribed in subsection (a) of this section, if any person is convicted of reckless driving under any section referred to therein, the court may suspend any license issued to such convicted person under Code of Virginia, § 46.2-300 et seq. for a period of not less than ten days nor more than six months, and such court shall require the convicted person to surrender his license so suspended to the court where it will be disposed of. If the person so convicted has not obtained the license required by such chapter, or is a nonresident, the court may direct in the judgment of conviction that such person shall not, for a period of not less than ten days or more than six months as may be prescribed in the judgment, drive or operate any motor vehicle in the commonwealth. The court or the clerk of court shall transmit the license to the commissioner of the state department of motor vehicles along with the report of the conviction required to be sent to the department of motor vehicles.
- (c) When any person is convicted of reckless driving as provided for in section 22-392, in addition to any other penalties provided by law, the driver's license of such person may be suspended by the court for a period of not less than 60 days nor more than six months. In case of conviction, the court shall order the surrender of the license to the court where it shall be disposed of in accordance with Code of Virginia, § 46.2-398. When the conviction is a second conviction which would require revocation under the provisions of Code of Virginia, § 46.2-389, the court shall suspend the driver's license of such person and thereupon transmit the same to the state department of motor vehicles as provided by law. If such person so convicted has not obtained a license required by Code of Virginia, § 46.2-300 et seq. or is a nonresident, such court shall direct in the judgment of conviction that such person shall not drive or operate any motor vehicle in the commonwealth for a period of not less than 60 days nor more than six months.

(Code 1973, § 23-66; Code 1988, § 22-395; Ord. No. 1989-83, § 1, 9-26-1989; Ord. No. 1990-69, § 1, 6-26-1990; Ord. No. 1990-118, § 1, 11-13-1990; Ord. No. 1995-32, § 1, 3-28-1995)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11.

State law reference(s)—Penalties for reckless driving, Code of Virginia, §§ 46.2-392, 46.2-393, 46.2-868.

Sec. 22-394. Finding accused guilty of improper driving rather than reckless driving.

Notwithstanding the foregoing provisions of this article, upon the trial of any person charged with a violation thereof where the degree of culpability is slight, the court, in its discretion, may find the accused not guilty of reckless driving but guilty of improper driving. Improper driving shall constitute a traffic infraction punishable by a fine not to exceed \$500.00.

(Code 1973, § 23-66; Code 1988, § 22-397; Ord. No. 1990-69, § 1, 6-26-1990)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-869.

Sec. 22-395. Maximum speed limits.

- (a) Except as otherwise provided, the maximum speed limits on highways of this city shall be as follows:
- (1) Fifty-five miles per hour on the interstate system of highways or other limited access highways with divided roadways if the vehicle is a passenger motor vehicle, passenger bus, United States post office bus, pickup or panel truck or a motorcycle; and 55 miles per hour on such highways if the vehicle is a truck, road tractor, tractor-truck, or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion or a house trailer.
 - (2) Fifty-five miles per hour on nonlimited-access highways having four or more lanes if the vehicle is a passenger motor vehicle, passenger bus, United States post office bus, pickup or panel truck or a motorcycle; and 55 miles per hour on such highway if the vehicle is a truck, road tractor, tractor-truck,

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- or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion or a house trailer, provided that for such highways such speed has been prescribed by the city manager after an engineering and traffic investigation. On any highway where such speed is prescribed, the speed shall be plainly indicated upon the highway by signs and, where the speed limit is indicated by posted signs, there shall be prima facie presumption that such engineering and traffic investigation was made.
- (3) Fifty-five miles per hour on highways not included in subsection (a)(1) or (a)(2) of this section if the vehicle is a passenger motor vehicle, passenger bus, United States post office bus, pickup or panel truck or a motorcycle; and 45 miles per hour on such highways if the vehicle is a truck, road tractor, tractor-truck, or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion or a house trailer.
 - (4) Thirty-five miles per hour on any highway other than an interstate highway if the vehicle is being used as a school bus to carry children and 45 miles per hour on interstate highways; provided, however, that for any such vehicle which neither takes on nor discharges children between its point of origin and point of destination, the speed limit shall be 45 miles per hour.
 - (5) Forty-five miles per hour on any highway if the vehicle or combination of vehicles is operating under a special permit issued by the state highway and transportation board in accordance with Code of Virginia, §§ 46.2-1112 and 46.2-1139. The state highway and transportation board may, however, prescribe a speed limit of less than 45 miles per hour on any permit issued in accordance with Code of Virginia, §§ 46.2-1112 and 46.2-1139.
 - (6) Twenty-five miles per hour between portable signs, tilt-over signs or fixed blinking signs placed in or along any highway bearing the word "school." Such word shall indicate that school children are present in the vicinity. Any signs erected under this subsection shall be placed not more than 300 feet from the limits of the school property or crossing in the vicinity of the school which is used by children going to and from the school; provided that such crossings are not more than 500 yards from the limits of the school property and the city council approves the crossing for such signs. It shall be the duty of the principal or chief administrative officer of each school or some responsible person designated by the school board, preferably not a classroom teacher, to place such portable signs in the highway at a point not more than 600 feet from the limits of the school property and remove such signs when their presence is no longer required by this subsection. Such portable signs, tilt-over signs or fixed blinking signs shall be placed in a position plainly visible to vehicular traffic approaching from either direction but shall not be placed so as to obstruct the roadway. Such portable signs, tilt-over signs or blinking signs shall be in a position or be turned on for 30 minutes preceding regular school hours and for 30 minutes thereafter and during such other times as the presence of children on such school property or going to and from school reasonably requires a special warning to motorists.
 - (7) Twenty-five miles per hour on highways in a business or residential district, except upon interstate or other limited-access highways with divided roadways.
 - (8) Thirty-five miles per hour on highways in the city, except upon interstate or other limited-access highways with divided roadways and except in business or residence districts.
 - (9) Notwithstanding the provisions of subsections (a)(1), (a)(2) and (a)(3) of this section, the speed limits for passenger motor vehicles while towing utility, camping or boat trailers not exceeding an actual gross weight of 2,500 pounds shall be the same as that for passenger motor vehicles.
- (b) Notwithstanding the provisions of subsection (a) of this section, the city manager may decrease the speed limits set forth in subsections (a)(1) through (a)(3) of this section and may increase or decrease the speed limits set forth in subsections (a)(6) through (a)(8) of this section; and he may establish differentiated speed limits for daytime and nighttime by decreasing for nighttime driving the speed limits set forth in subsections (a)(1) through (a)(3) of this section and by increasing for daytime or decreasing for nighttime the speed limits

set forth in subsections (a)(6) through (a)(8) of this section. Such increased or decreased speed limits and such differentiated speed limits for daytime and nighttime driving shall be effective only when prescribed after a traffic engineer and traffic investigation and when indicated upon the highway by signs.

(Code 1973, § 23-105; Code 1988, § 22-398; Ord. No. 1989-83, 9-26-1989)

Cross reference(s)—Speed limit in city cemeteries, § 9-51; speed limit in parks, § 25-115.

State law reference(s)—Maximum speed, Code of Virginia, § 46.2-870.

Sec. 22-396. Minimum speed restrictions.

- (a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
- (b) Whenever the city manager shall determine on the basis of a traffic engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the city manager may determine and declare a minimum speed limit to be set forth on signs posted on such highway below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law; provided, however, that such minimum speed limit shall not apply to a school bus carrying children.

(Code 1973, § 23-106; Code 1988, § 22-399)

State law reference(s)—Authority to alter speed limits, Code of Virginia, § 46.2-878.

Sec. 22-397. Slow-moving vehicles on Churchland Bridge prohibited.

- (a) No slow-moving motor vehicle shall be driven across the Churchland Bridge between the hours of 7:00 a.m. and 9:00 a.m., and 3:00 p.m. and 6:00 p.m. For the purposes of this section "slow-moving motor vehicle" shall be taken to mean any motor vehicle which is not designed to or which is not able to attain a speed of 30 miles per hour.
- (b) No person shall drive a motor vehicle at any time on the Churchland Bridge at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(Code 1973, § 23-107; Code 1988, § 22-400)

Sec. 22-398. Mopeds, motorized push scooters; operation on certain streets and highways; prohibited; penalty.

- (a) Mopeds shall not be operated on any street, highway, or public vehicular area at a speed in excess of 35 miles per hour. Any person who operates a moped at a speed in excess of 35 miles per hour shall be deemed, for all the purposes of this chapter, to be operating a motorcycle.
- (b) Operation of mopeds is prohibited on any Interstate Highway System component.
- (c) Violation of this subsection shall constitute a traffic infraction punishable by a fine of no more than \$50.00.

(Code 1988, § 22-400.1; Ord. No. 2005-104, § 2, 11-22-2005; Ord. No. 2013-20, §§ 1, 2, 4-23-2013)

Secs. 22-399—22-450. Reserved.

ARTICLE VII. ONE-WAY STREETS

DIVISION 1. GENERALLY

Sec. 22-451. When provisions effective.

The provisions of this article shall become effective as to any one-way street when signs have been provided therefor as prescribed in section 22-452.

(Code 1973, § 23-158; Code 1988, § 22-451; Ord. No. 2022-26 , § 1, 4-12-2022)

Sec. 22-452. Authority of city manager to establish one-way streets and erect signs.

- (a) The city manager is authorized to designate streets within the city for one-way traffic only and is authorized and directed to provide such signs as will apprise an ordinarily observant person of such one-way streets.
- (b) It shall be unlawful for any person to drive in an unauthorized direction on a one-way street.

(Code 1973, § 23-159; Code 1988, § 22-452; Ord. No. 2022-26 , § 1, 4-12-2022)

Sec. 22-453. Permits for exceptions.

When it can be demonstrated to the satisfaction of the city manager, or the city manager's duly authorized representative, that the strict enforcement of the provisions of this article will cause an unreasonable hardship on some particular person relative to the loading or unloading of trucks or other vehicles on such one-way streets, the city manager, or the city manager's duly authorized representative, is authorized to issue a special permit to such person permitting a variance from the provisions of this article. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the satisfaction of the city manager, or the city manager's duly authorized representative, that the granting of such permit will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience to the person who seeks such permit.

(Code 1973, § 23-160; Code 1988, § 22-453; Ord. No. 2022-26 , § 1, 4-12-2022)

Secs. 22-454—22-470. Reserved.

DIVISION 2. RESERVED⁸

⁸Ord. No. 2010-18, § 3, adopted Mar. 23, 2010, repealed Div. 2. Former Div. 2, §§ 22-471—22-509, pertained to enumerations and derived from Code 1973, §§ 23-166—23-194.2; Code 1988, §§ 22-471—22-509; Ord. No. 1993-88, § 1, adopted Dec. 14, 1993; Ord. No. 1995-30, § 3, adopted Mar. 28, 1995; and Ord. No. 2005-26, § 1, adopted Apr. 12, 2005.

Secs. 22-471—22-535. Reserved.

ARTICLE VIII. MALL AND MALL TRANSIT STREETS

Sec. 22-536. Established.

For the purpose of regulating traffic pursuant to the police power of the city and to ensure the safety of pedestrian traffic, the following streets are hereby designated mall and mall transit streets, subject to the provisions of this article:

MALL AND LIMITED-ACCESS STREETS

- (1) Middle Street between High Street and King Street.
- (2) King Street for a distance of 355 feet east of the centerline of Middle Street Mall and 230 feet west of said centerline.

MALL TRANSIT STREETS

- (1) Harbor Street between Harbor Court and Water Street.

(Code 1973, § 23-493; Code 1988, § 22-536; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-537. Vehicles prohibited; exceptions.

- (a) On any mall street or mall transit street no person shall operate or park any vehicle, including but not limited to automobiles, trucks, motorcycles and bicycles, on such street, other than the following:
 - (1) Emergency vehicles;
 - (2) Public vehicles and equipment and public utility vehicles and equipment (other than for transit or transportation purposes);
 - (3) Vehicles and equipment engaged in the construction or maintenance of such street;
 - (4) Construction vehicles and equipment, between the hours of 9:00 p.m. and 9:00 a.m. only, while being used in the construction, repair or demolition of any buildings or structures adjacent to such street, provided that a permit has been first obtained from the department of building inspection or the department of public works;
 - (5) Mass transit vehicles operated under a franchise granted by the city council, on a mall transit street only;
 - (6) Vehicles delivering to commercial stores merchandise for sale.
- (b) Permits for any vehicular use of such street other than those permitted herein shall be obtained from the city manager. A permit may be granted for such other vehicular use only at such times and under such conditions as may be reasonably calculated to protect pedestrian traffic and to protect the surface of such street and any structures, fixtures, appurtenances and features thereon.

(Code 1973, § 23-494; Code 1988, § 22-537)

Sec. 22-538. Damage to streets.

- (a) No person shall operate, park, load or unload on any mall street or mall transit street any vehicle or equipment, including those permitted under section 22-537, in such manner as to mark, stain or damage the surface of such street or any structures, fixtures, appurtenances and features thereon by any means including but not limited to wheel marks, oil drippings and excess weight.
- (b) Any person operating or causing the operation of any such vehicle or equipment which so marks, stains or otherwise damages such surface or structures, fixtures, appurtenances and features shall be responsible for replacing, repairing or correcting the same to the satisfaction of the city, and upon failure to do so, shall be responsible to the city for the cost of such replacement, repair or correction.

(Code 1973, § 23-495; Code 1988, § 22-538)

Sec. 22-539. Sidewalk areas.

- (a) In mall and mall transit streets, the owners or occupiers of property abutting thereon shall not be responsible for the installation, maintenance and resurfacing of the portion of the right-of-way which was formerly customary sidewalk area, and the city shall be responsible for such installation, maintenance and resurfacing. The city may, at its discretion, resurface vault areas or require the owners or occupiers of the abutting property to do so. Such owners or occupiers shall continue to be responsible for the installation, maintenance, proper repair, structural soundness, and removal of vaults. The term "vault" shall include basements which extend under the surface of the street right-of-way.
- (b) In mall streets, such owners or occupiers shall be responsible for removal of snow from and for cleaning of the portion of the right-of-way which was formerly customary sidewalk area or which is ten feet from the property line, whichever is greater.
- (c) In mall transit streets, such owners or occupiers shall be responsible for removal of snow and for cleaning from the nearest edge of the transit lane to the building line, in no event to exceed a distance of 20 feet from the property line.

(Code 1973, § 23-496; Code 1988, § 22-539)

Secs. 22-540—22-560. Reserved.

ARTICLE IX. STOPPING, STANDING AND PARKING⁹

DIVISION 1. GENERALLY

⁹Cross reference(s)—Parking by persons conducting or attending residential (yard) sale, § 18-133; parking of mobile homes or camper-type trailers on streets, § 21-3; standing or parking of vehicles in parks, § 25-113; standing vehicle on railroad track, § 29-9.

State law reference(s)—Authority to adopt local parking regulations, Code of Virginia, § 46.2-1220.

Sec. 22-561. Stopping or parking on highways generally.

- (a) No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency as the result of an accident or mechanical breakdown, in which case the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are operating, and a report shall be made to the nearest police officer as soon as practicable, and the vehicle shall be removed from the roadway to the shoulder as soon as possible and removed from the shoulder without necessary delay. If the vehicle is not promptly removed, such removal may be ordered by a police officer at the expense of the owner if the disabled vehicle creates a traffic hazard.
- (b) No vehicle shall be stopped except close to and parallel to the righthand edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the lefthand curb or edge of the roadway on one-way streets or may be parked at an angle where permitted by posted city signage. Where back-in or front-in parking is required by posted city signage, no vehicle shall be parked in the opposite direction. No vehicle shall be parked or stopped with any of its wheels on or over the curb.
- (c) No vehicle shall be stopped at or in the vicinity of a fire, vehicle or airplane accident or other area of emergency in such a manner as to create a traffic hazard or interfere with the necessary procedures of police, firemen, rescue workers or others whose duty it is to deal with such emergencies. Any vehicle found unattended in the vicinity of such fire, accident or area of emergency may be removed by order of a police officer at the risk and expense, not to exceed the amount as set forth in appendix A to this Code, of the owner if such vehicle creates a traffic hazard or interferes with the necessary procedures of police, firemen, rescue workers or others whose assigned duty is to deal with such emergencies.
- (d) Vehicles being used by accredited information services, such as press, radio and television, when being used for the gathering of news, shall be exempt from provisions of this section, except when actually obstructing the police, firemen and rescue workers dealing with emergencies.
- (e) The provisions of this section shall not apply to any vehicle owned or controlled by the state department of highways and transportation or any unit of local government, while actually engaged in the construction, reconstruction or maintenance of highways.

(Code 1973, §§ 23-206, 23-213, 23-214; Code 1988, § 22-561; Ord. No. 2014-99, § 1, 11-25-2014)

State law reference(s)—Stopping vehicle on highways, Code of Virginia, § 46.2-888 et seq.

Sec. 22-562. General parking prohibitions; interference with parked vehicle.

- (a) No person shall park a vehicle, except 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 driveway.
 - (3) On a crosswalk.
 - (4) Within 20 feet of crosswalk at an intersection.
 - (5) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal.
 - (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.

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- (8) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
 - (9) On the roadway side of any vehicle parked at the edge or curb of a street.
 - (10) Upon any bridge or other elevated structure upon a street or highway or within a tunnel.
 - (11) Wherever official signs prohibit parking completely or during or after certain hours or days.
- (b) No person shall park on any public street or right-of-way any vehicle with missing state license plates or expired state license stickers.
 - (c) 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, or 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 1973, § 23-204; Code 1988, § 22-562; Ord. No. 2005-116, § 1, 12-13-2005; Ord. No. 2007-61, § 1, 6-12-2007)

State law reference(s)—Authority to adopt ordinances regulating operation of vehicles, Code of Virginia, § 46.2-1300.

Sec. 22-563. Parking, standing in front of private driveway, near fire hydrant or fire station, etc.

- (a) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a highway in front of a private driveway or within 15 feet in either direction of a fire hydrant or the entrance to a fire station, or within 15 feet of the entrance to a building housing rescue squad equipment or ambulances, provided such buildings are plainly designated, or within 20 feet from the intersection of curblines or, if none, then within 15 feet of the intersection of property lines at an intersection of highways.
 - (b) A violation of this section shall be punishable by a fine of \$50.00.
- (Code 1973, § 23-205; Code 1988, § 22-565; Ord. No. 1995-18, § 1, 3-14-1995; Ord. No. 2002-41, § 1, 7-9-2002)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1239.

Sec. 22-564. Parking in public lanes.

- (a) No parking shall be permitted in public lanes in the city at any time.
 - (b) A violation of this section shall be punishable by a fine not to exceed \$25.00.
- (Code 1973, § 23-208; Code 1988, § 22-567; Ord. No. 1995-11, § 2, 1-24-1995)

Sec. 22-564.1. Blocking intersections or marked crosswalks.

- (a) 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.
 - (b) Any violation of this section shall be punishable by a fine of \$250.00.
- (Ord. No. 2010-18, § 2, 3-23-2010)

Sec. 22-565. Parking, standing on roadway outside of business or residence district.

- (a) No person shall leave any vehicle, attended or unattended, upon the paved, improved or main traveled portion of any highway, outside of a business or residence district, when it is practicable to leave such vehicle standing off the paved, improved or main traveled portion of such highway.
- (b) The provisions of subsection (a) of this section shall not apply to any vehicle owned or controlled by the state department of highways and transportation or the city, while actually engaged in the construction, reconstruction or maintenance of highways.

(Code 1973, § 23-209; Code 1988, § 22-569)

State law reference(s)—Authority to adopt ordinances regulating operation of vehicles, Code of Virginia, § 46.2-1300.

Sec. 22-566. Parking for more than 48 hours.

- (a) It shall be unlawful for any person to leave or cause to be left any motor vehicle for more than 48 hours in any public street. If any such person fails to remove the vehicle within 24 hours after being notified so to do by any police officer, then every day which shall elapse thereafter without such removal shall constitute a separate offense.
- (b) The provisions of subsection (a) shall not apply in any residential parking district created under section 22-567.1, provided the motor vehicle displays a valid residential parking district decal or sticker.

(Code 1973, § 23-210; Code 1988, § 22-570; Ord. No. 1998-39, 7-28-1998; Ord. No. 2007-35, § 2, 3-27-2007)

State law reference(s)—Authority to adopt ordinances regulating operation of vehicles, Code of Virginia, § 46.2-1300.

Sec. 22-567. Parking of certain vehicles in residential districts prohibited.

It shall be unlawful for any person to park or permit to be parked in the streets of the city, in any residential district, any motorbus, van, truck, trailer, or semitrailer, between the hours of 7:00 p.m. of any day and 6:00 a.m. of the following day, except on Saturday and Sunday, and between the hours of 6:00 p.m., on Saturday and 6:00 a.m., the following Monday except for the purpose of taking on or discharging passengers or cargo; provided, however, that this section shall not apply to small delivery trucks and pickup trucks whose overall length does not exceed 18 feet, whose overall width does not exceed seven feet and whose overall height does not exceed 6½ feet.

(Code 1973, § 23-211; Code 1988, § 22-571)

Sec. 22-567.1. Residential parking districts.

- (a) In order to reduce or prevent congestion in public streets within areas zoned for residential use, to reduce hazardous traffic conditions resulting from the use of such streets for the parking of vehicles by non-residents, to protect the residents of such districts from unreasonable burdens in gaining access to their residences, to promote efficiency in the maintenance of streets in a clean and safe condition; to preserve the safety of children and other pedestrians, to protect against danger and congestion in travel and transportation, to facilitate the creation of a convenient, attractive and harmonious community, to preserve the value of property in residential districts; to preserve peace, good order, convenience and welfare of the inhabitants of the city, the city manager is hereby authorized to designate by order, rule, or regulation the

creation, expansion, or reduction of such residential parking district or districts as he may deem necessary to accomplish the above-stated purposes.

- (b) Upon a written finding outlining the need for the creation, reduction, or expansion of a residential parking district, the city manager shall, by order, rule, or regulation create, reduce, or expand such district. The order, rule or regulation shall establish the conditions governing parking in the district and may provide for the issuance of parking permits to residents of the district, their guests, and to others lawfully engaging in activities within the district.

Any permit so issued shall be of such term as the city manager or his designee shall deem appropriate, but in no event shall any term be longer than one year from the date of issuance. Permits may be renewed upon a showing by the applicant of continued eligibility. Permits shall expire automatically upon the cessation of the conditions giving rise to eligibility.

- (c) Prior to the enforcement of any order, rule, or regulation establishing a residential parking district, the city manager shall cause appropriate signs giving notice of the restricted parking to be posted on the streets within the district. The signs placed in the district shall be of such character as to inform readily any ordinarily observant person of the existence of the rules and regulations imposing the foregoing restrictions.
- (d) Any person who represents that he is entitled to a residential parking permit when not so entitled, who fails to surrender a permit to which he is no longer entitled, or who parks a vehicle displaying such a permit at any time when the holder of the permit is not entitled to hold it shall be guilty of a violation of this section. Violators of any provision of this section shall be subject to the penalties provided in section 22-578.
- (e) Wherever metered parking is in effect in any portion of a district that becomes subject to the restrictions of this section, the parking spaces controlled by meters may be exempted from the provisions of this section so long as the control by meters continues.
- (f) Any residential parking district created prior to the adoption of this provision shall remain in full force and effect as if adopted hereunder. Such district may be expanded or reduced in size by the city manager in accordance with this section.

(Ord. No. 2007-35, § 1, 3-27-2007)

Sec. 22-567.2. Parking of unconnected semitrailers.

- (a) The term "semitrailer" shall be deemed to mean every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle. This section shall apply only to semitrailers that are at least 23 feet in length, whether loaded or unloaded.
- (b) No person shall park a semitrailer that is not connected to a truck or tractor, on any public street, sidewalk, or right-of-way at any time.
- (c) (1) Any police officer of the city who observes a semitrailer parked in violation of the preceding subsection shall make reasonable efforts to contact the owner and seek to have the owner remove the trailer before taking any official action. If these efforts are not successful, the police officer may then cause it to be ticketed, towed, and impounded.
 - (2) However, if the trailer creates a traffic hazard, there shall be no requirement of effort to contact the owner, and the trailer may be ticketed, towed, and impounded forthwith.
- (d) The fine for a violation of this section shall be \$250.00.
- (e) A semitrailer that has been impounded under this section shall not be released until the owner thereof, or a person acting on behalf of the owner, pays in full the towing charge, all accrued impound fees, and the fine.

(Ord. No. 2009-04, 1-13-2009)

Sec. 22-568. Parking in front of entrance of places where audiences assemble.

Except when parked in accordance with regularly erected signs or markers or in a parking meter space, it shall be unlawful for any person to park in front of the entrance of any church, theatre, public building, or other place where audiences are assembled, during the hours of service, entertainment or performances, or when occupied by the public. The city manager may permit parking in front of churches during marriage ceremonies and funerals, except immediately in front of the entrance thereof.

(Code 1973, § 23-212; Code 1988, § 22-572)

Sec. 22-569. Consent required to park on private property.

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner, operator or lessee thereof. Whenever signs or markings have been erected on any lot or lot area, contiguous or adjacent to a street, thoroughfare or alley permitting parking or standing of vehicles thereon only with the permission of the owner, operator or lessee, or prohibiting the parking or standing of vehicles thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person to stop, stand or park any vehicle in such lot or lot area.

(Code 1973, § 23-215; Code 1988, § 22-573)

Sec. 22-570. Removal, storage of vehicles unlawfully parked on private property.

- (a) It shall be lawful for any owner, operator or lessee of any parking lot or parking area or space therein or part thereof, or of any other lot or building, to have any motor or other vehicle, occupying such lot, area, space or building or part thereof without the permission of such owner, operator, lessee or authorized agent of the one having the control of such premises removed by towing, or otherwise, to a licensed garage for storage until called for by the owner or his agent.
- (b) Any towing under the provisions of this section shall not be commenced unless notice is, first or simultaneously with the towing operations, given by the tow truck operator to the police department or to the state police. Failure to report such tow as required by this section shall constitute a traffic infraction punishable by a fine not to exceed \$100.00. Additionally, such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.
- (c) In the event of such removal and storage, the owner of the vehicle involved shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage. However, if the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a fee as set forth in appendix A to this Code, in lieu of towing.
- (d) The provisions of subsection (a) of this section shall not apply to police, fire or public health vehicles or when a vehicle shall, because of a wreck or other emergency, be parked or left temporarily upon the property of another.
- (e) All businesses engaged in towing vehicles without the consent of their owners shall prominently display a comprehensive list of all fees for towing, recovery and storage services, or the basis of such charges. Charges

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in excess of those posted shall not be collectible from any motor vehicle owner whose vehicle is towed, recovered or stored without his consent.

(Code 1973, § 23-216; Code 1988, § 22-574; Ord. No. 1991-75, § 2, 7-9-1991; Ord. No. 1994-57, § 1, 6-14-1994)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1231.

Sec. 22-571. Liability for damage to vehicles parked in free parking lot.

- (a) As used in this section, the term "free parking accommodations" means parking accommodations for which no specific charge is made and the patronage of the business by customers and the performance of the regular services for the business by employees shall not constitute the payment of any consideration for the use of the parking accommodations.
- (b) No action shall lie or proceeding be brought against any person conducting any business and maintaining a parking lot, at which free parking accommodations are provided for customers or employees of such business, when a motor vehicle is parked in such parking lot, for the total or partial loss of such motor vehicle by reason of theft or damage by any person other than an employee or for the total or partial loss of property left in such motor vehicle by reason of theft or damage by any person other than an employee; provided, however, that nothing in this section shall be construed to relieve any person of liability resulting from his own wrongdoing.

(Code 1973, § 23-217; Code 1988, § 22-575)

State law reference(s)—Authority to adopt ordinance prohibiting parking on private property, removal, Code of Virginia, § 46.2-1215.

Sec. 22-572. Use of loading zones.

Where a loading and unloading zone has been set apart by the city manager in accordance with applicable provisions of this chapter, the following regulations shall apply with respect to the use of such areas:

- (1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks, using such loading zones shall be identified by the owner's or company's name in letters three inches high on both sides of the vehicle.
- (2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, 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 1973, § 23-218; Code 1988, § 22-576)

Sec. 22-573. Use of bus stops.

Where a bus stop has been set apart by the city manager in accordance with the applicable provisions of this chapter, no person shall stop, stand or park a vehicle other than a bus in such bus stop, when such stop has been officially designated and appropriately signed, except that 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 waiting to enter or about to enter such zone.

(Code 1973, § 23-219; Code 1988, § 22-577)

Sec. 22-574. Stopping vehicle for advertising purposes.

Stopping a vehicle at any time upon any street or highway for the purpose of advertising any vehicle of any kind, or displaying thereupon advertisements of any article, or advertisement for sale of the vehicle itself, is prohibited.

(Code 1973, § 23-222; Code 1988, § 22-580)

Sec. 22-575. Backing to curb.

Except where permitted or required by posted city signage, no vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom and then not to obstruct traffic.

(Code 1973, § 23-223; Code 1988, § 22-581; Ord. No. 2012-26, § 1, 5-22-2012, eff. 8-1-2012; Ord. No. 2014-99, § 1, 11-25-2014)

Sec. 22-576. Parking in spaces reserved for persons with disabilities.

- (a) It shall be unlawful for a driver of a motor vehicle to park in a parking space reserved for persons with disabilities, at privately owned shopping centers, business offices, or parking lots or on the streets or public grounds of the city, unless such driver or passenger is a person with a disability that limits or impairs his ability to walk and the motor vehicle displays disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, a temporary removable windshield placard issued under Code of Virginia, § 46.2-731, or DV disabled parking license plates issued under Code of Virginia, § 46.2-739(B). The license plate issued by the commissioner to a motor vehicle shall be attached to such motor vehicle. Any such windshield placard must be displayed in the front windshield of the motor vehicle when such vehicle is parked in a parking space reserved for persons with disabilities. Spaces reserved for persons with disabilities shall be identified in accordance with the provisions of Code of Virginia, § 36-99.11.
- (b) It shall be the duty of each police officer or other uniformed city employee or appointee whose normal duties include enforcing parking regulations to give to any person operating a motor vehicle parked in violation of this section a summons or parking ticket or to attach to the vehicle found so parked, a parking ticket which states that such vehicle has been illegally parked in violation of this section and instructing the operator to report to the city treasurer or the police records office of the police department within 14 days, to pay the sum of \$200.00 due to his vehicle being illegally parked in violation of this section. Upon failure of the violator to pay the penalty for the violation noted herein, a summons or warrant for the prosecution of the violation shall be issued according to law, without necessity of a warrant being obtained by the owner of the private parking area. Any person convicted of a violation of this section shall be punished by a fine of not less than \$200.00 nor more than \$500.00.
- (c) In any prosecution under subsection (a) of this section, proof that the vehicle described in the summons, ticket or warrant was parked in violation of subsection (a) of this section, together with proof that the defendant was at the time the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.
- (d) Disabled parking license plates, permanent removable windshield placards, temporary removable windshield placards, and DV disabled parking license plates issued by other states and countries for the purpose of identifying vehicles permitted to use parking spaces reserved for persons with disabilities that limit or impair

their ability to walk shall be accorded all rights and privileges accorded vehicles displaying such devices in the commonwealth.

(Code 1973, § 23-229; Code 1988, § 22-582; Ord. No. 1990-69, § 1, 6-26-1990; Ord. No. 1992-58, § 1, 6-23-1992; Ord. No. 1994-72, § 1, 6-28-1994; Ord. No. 1995-11, § 3, 1-24-1995; Ord. No. 2002-41, § 1, 7-9-2002; Ord. No. 2007-61, § 2, 6-12-2007)

State law reference(s)—Authority to adopt ordinances prohibiting parking in spaces for the disabled, Code of Virginia, § 46.2-1240 et seq.

Sec. 22-577. Appointees to enforce parking regulations.

The city manager, or his designee, the chief of police, is hereby authorized to appoint uniformed personnel serving under an agreement with the city, in addition to regular and auxiliary police officers, to enforce the provisions of sections 22-562(a), 22-563 through 22-569, 22-572, 22-573, 22-574 through 22-578, 22-605 through 22-608, 22-611, 22-613 through 22-616, 22-634, 22-636 through 22-639, 22-642 through 22-644, and 22-664 of the City Code governing parking regulations, without the necessity of a warrant being obtained by the owner of a private parking area. Such personnel shall wear a uniform as prescribed by the city manager, or his designee, the chief of police. Such personnel, who are not sworn law enforcement officers, shall not have general police powers, and shall not have arrest powers, and, they shall only be authorized to issue parking violation summons to persons found in violation of the sections set out herein.

(Code 1988, § 22-582.1; Ord. No. 1997-20, § 1, 4-8-1997)

Sec. 22-578. Procedure and penalties for parking violations.

- (a) Except where otherwise provided, it shall be the duty of each police officer of the city, or other uniformed city employee or appointee whose normal duties include parking enforcement, to give to the person operating a motor vehicle illegally parked, a notice, or to attach to the vehicle found so parked, a notice to the owner that the vehicle has been illegally parked and instructing him/her to report to the city treasurer or the police records office of the police department to pay the penalty of \$25.00 or state objection to and intent to contest the notice of violation. Provided, however, the penalty for an overtime parking violation, not including a violation of sections 22-566 or 22-567, in the Downtown Business District, as defined in section 22-582, shall be \$15.00, and the penalty for parking without a current Olde Towne parking permit in the Olde Towne Historic District between the hours of 12:00 a.m. and 6:00 a.m. shall be \$50.00. If the owner of the vehicle fails to make such payment within 14 days of the time the notice was attached to the vehicle, or state objection to and intent to contest the notice of violation, he/she shall again be notified and an additional penalty of \$10.00 shall be charged for the additional notice. All monies due shall be paid to the city treasurer or the police records office of the police department who shall be accountable therefor. Failure of the owner of the vehicle to pay the penalty for such violation and the \$10.00 for the additional notice within 28 days from the date of violation, shall constitute a violation of this section. Any person convicted of a violation of this section shall be punished by a fine of not less than \$25.00 nor more than \$100.00.
- (b) The contesting by any person of any parking citation shall be certified in writing, on an appropriate form to the appropriate district court, by the chief of police.
- (c) The chief of police, or his designee, shall cause complaints, summons or warrants to be issued for delinquent parking citations. However, before any summons shall issue for the prosecution of a violation of an ordinance regulating parking, the violator shall have been first notified by mail at his last known address or at the address shown for such violator on the records of the state department of motor vehicles, that he may pay the penalty, provided by law for such violation, within 14 days of receipt of such notice, and the authorized person issuing the complaint, summons or warrant shall be notified that the violator has failed to

pay such penalty within such time. Notice to the violator, required by the provisions of this section, shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed on the face thereof in type at least one-half inch in height.

(Code 1973, § 23-224; Code 1988, § 22-583; Ord. No. 1995-11, § 4, 1-24-1995; Ord. No. 1995-18, § 2, 3-14-1995; Ord. No. 2002-41, § 1, 7-9-2002; Ord. No. 2006-106, § 2, 12-12-2006; Ord. No. 2007-61, § 2, 6-12-2007; Ord. No. 2012-26, § 1, 5-22-2012, eff. 8-1-2012)

State law reference(s)—Provisions similar to subsection (c) above, Code of Virginia, §§ 46.2-941, 46.2-1225.

Sec. 22-579. Interference by officers with enforcement of parking penalties.

It shall be unlawful for any police officer, city official or any other person to remove from the report or destroy the record of the illegal parking of any vehicle, or to do any other act which shall prevent any penalty from being imposed.

(Code 1973, § 23-225; Code 1988, § 22-584)

Sec. 22-580. Responsibility of vehicle owner for parking violations.

The owner of any illegally parked motor vehicle shall, prima facie, be guilty of such violation.

(Code 1973, § 23-226; Code 1988, § 22-585)

Sec. 22-581. Removal of vehicles with three outstanding parking violation notices.

Whenever there is found any motor vehicle parked upon the public streets or highways or public grounds against which there are three or more outstanding unpaid or otherwise unsettled parking violation notices or tickets, such a vehicle may, by towing or otherwise be removed or conveyed to the city compound designated by the city manager for the temporary storage of such vehicle. Such removal or conveyance shall be under the direction of a member of the police department. It shall be the duty of the police department to inform, as soon as practicable, in writing, the owner of the removed vehicle of the nature and circumstances of the prior unsettled parking violation notices or tickets, for which or on account of which, such a vehicle was removed. The owner of such removed vehicle or other duly authorized person, shall be permitted to repossess or to secure the release of the vehicle by payment of outstanding parking violation notices or tickets for which the vehicle was removed and by payment of all towing costs and storage fees as prescribed in section 22-805(a) of this Code and for the reasonable costs incidental or incurred in the efforts to locate the owner of the vehicle. Should such owner fail or refuse to pay such fines and costs or should the identity or whereabouts of such owner be unknown and unascertainable, the vehicle that was so removed may be sold at public auction in accordance with the procedures set forth in section 22-806(a).

(Code 1973, § 23-228; Code 1988, § 22-585; Ord. No. 1995-109, § 1, 11-14-1995)

State law reference(s)—Authority for above section, Code of Virginia, § 46.2-1216.

Sec. 22-582. Downtown Business District defined.

For purposes of this article, the Downtown Business District is defined as the area bounded by Queen Street on the north, King Street on the south, Chestnut Street on the west, and Water Street on the east. The area so bounded shall be deemed to encompass both sides of each said street.

(Ord. No. 2006-106, § 1, 12-12-2006)

Secs. 22-583—22-600. Reserved.

DIVISION 2. PARKING METERS GENERALLY¹⁰

Sec. 22-601. Designation of zones.

The following described parts of streets in the city are hereby designated as parking meter zones:

County Street, south side, from Crawford Street to Court Street.

County Street, north side, from Crawford Street to garage entrance.

Court Street, east side, from High Street to King Street.

Court Street, both sides, from King Street to County Street.

Crawford Street, both sides, from High Street to London Street.

Crawford Street, both sides, from King Street to Columbia Street.

Harbor Street, west side, from Water Street to Harbor Court.

King Street, north side, between Middle Street Mall and Washington Street.

London Street, south side, from Crawford Street to Court Street.

London Street, both sides, from Crawford Street to Water Street.

Queen Street, south side, from Court Street to Crawford Street.

Washington Street, both sides, from High Street to County Street.

(Code 1973, § 23-257; Code 1988, § 22-601; Ord. No. 1990-119, § 1, 11-13-1990; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-602. Powers, duties of city manager generally.

- (a) In the zones designated in section 22-601, the city manager shall cause to be installed parking meters and shall cause parking meter spaces to be designated in accordance with the provisions of this article.
- (b) The city manager is hereby directed to provide for the installation, regulation, control, operation and use of the parking meters provided for in this division, and to maintain such meters in good working condition. The city manager is hereby invested with power and authority to enter into a contract for the purchase and installation of parking meters.

(Code 1973, § 23-258; Code 1988, § 22-602)

Sec. 22-603. Meter fees; installation, operation, etc., of meters.

- (a) The fee for parking at a meter in a parking meter zone shall be as established in appendix A of this Code.

¹⁰State law reference(s)—Authority of city as to parking meters, Code of Virginia, § 46.2-1220.

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- (b) Parking meters installed in the parking meter zones established as provided in this division, shall be placed upon the curb immediately adjacent to the individual parking places. Each parking meter shall be placed or set in such manner as to show or display by a signal that the parking space adjacent to such meter is or is not legally in use. Each parking meter shall be installed and set to display, upon the deposit of a coin of the United States therein, as required by the legend on the meter, a signal indicating legal parking for that period of time which has been or may be established for that area or zone of the street upon which such parking meter is installed, and shall continue to operate from the time of the deposit of such coins therein until the expiration of the time fixed as a parking limit for the part of the street upon which such parking meter is placed. Each such meter shall also be arranged that, upon the expiration of the legal parking time, it will indicate by a mechanical operation and the dropping of proper signal that the lawful parking period has expired.

(Code 1973, § 23-259; Code 1988, § 22-603; Ord. No. 2011-22, § 1, 5-4-2011)

Editor's note(s)—Sec. 3 of Ord. No. 2011-22 states that this ordinance shall take effect July 1, 2011.

Sec. 22-604. Parking spaces.

The city manager shall have lines or markings painted or placed on the curb and upon the streets, either or both, adjacent to each parking meter for the purpose of designating the parking space for which such meter is to be used, and each vehicle parked alongside of or next to any parking space shall park within the lines or markings so established. It shall be unlawful for any person to park any vehicle across any such line or marking, or to park such vehicle in such position that the same shall not be entirely within the area so designated by such lines or markings, and it shall be unlawful to park any vehicle in any place in such zone except within the spaces indicated for such parking.

(Code 1973, § 23-260; Code 1988, § 22-604)

Sec. 22-605. Manner of parking generally.

When parking space in any parking meter zone is parallel with the adjacent curb or sidewalk any vehicle parked in such parking space shall be parked so that the vehicle is centered within the indicated parking space. When a parking space in any parking meter zone is diagonal to the curb or sidewalk, any vehicle parked in any such parking space shall be parked within the indicated space with the foremost part of such vehicle directed at and nearest to such meter.

(Code 1973, § 23-261; Code 1988, § 22-605)

Sec. 22-606. Occupation of space upon deposit of coin; parking overtime.

When any vehicle shall be parked in any space alongside of or next to which a parking meter is located, in accordance with the provisions of this division, the driver of the vehicle shall, upon entering such parking space, immediately deposit or cause to be deposited, a coin of the United States in such parking meter, as required by the legend on the meter, and such parking space may then be lawfully occupied by such vehicle during such period as may be indicated by such legend, which is herein prescribed as the period of parking time allowed in such zone. If such vehicle shall remain parked in such parking space beyond the parking time limit fixed by such parking space, the parking meter shall display a sign or signal showing illegal parking, and in such event, the vehicle parked in such parking space shall be considered as parked overtime and beyond the period of legal parking time, and the parking of a vehicle overtime or beyond the period of legal parking time in such parking space shall be a violation of this division, and punished as hereinafter set out.

(Code 1973, § 23-262; Code 1988, § 22-606)

Sec. 22-607. Owner not to allow parking overtime.

It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle registered in the name of such person to be parked overtime or beyond the period of legal parking time established for any parking meter zone as described in this division.

(Code 1973, § 23-263; Code 1988, § 22-607)

Sec. 22-608. Occupation of space when signal indicates overtime parking.

It shall be unlawful for any person to permit a vehicle to remain or be placed in any parking space adjacent to any parking meter while such meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period of time prescribed for such parking space.

(Code 1973, § 23-264; Code 1988, § 22-608)

Sec. 22-609. Deposit of coin for purpose of extending 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 on the meter. Upon conviction of a violation of this section, the defendant shall be punished as provided in section 22-616.

(Code 1973, § 23-265; Code 1988, § 22-609)

Sec. 22-610. Defacing, injuring, tampering with.

It shall be a class 1 misdemeanor for any person to deface, injure, tamper with, open, or willfully break, destroy, or impair the usefulness of any parking meter installed under the provisions of this division.

(Code 1973, § 23-266; Code 1988, § 22-610)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11; authority of city manager to offer reward in cases involving damage to city property, § 2-167; damaging city property generally, § 24-318.

Sec. 22-611. Procedure in case of violation.

- (a) It shall be the duty of each police officer of the city, or other uniformed city employee or appointee whose normal duties including parking enforcement, to report:
 - (1) The number of each parking meter that indicated that the vehicle occupying the parking space adjacent to such parking meter is or has been parked in violation of any of the provisions of this division.
 - (2) The state license number and/or any other identifying information of such vehicle.
 - (3) The length of time during which such vehicle is parked, in violation of any of the provisions of this division.
 - (4) Any other facts, knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(b) Each police officer, or other uniformed city employee or appointee whose normal duties include parking enforcement, shall attach to the vehicle a notice to the owner thereof; that the vehicle has been parked in violation of a provision of this division and instructing the owner to report to the city treasurer or the police records office of the police department in regard to such violation, and to pay the penalty or state objection to and intent to contest the notice of violation. Each owner may, within 14 days of the time when such notice was attached to the vehicle, pay a penalty in the sum of \$25.00 for violation of any of the provisions of this division. Provided, however, the penalty for an expired meter violation in the Downtown Business District, as defined in section 22-582, shall be \$15.00. If the owner of the vehicle fails to make the payment within 14 days of the time when such notice was attached to the vehicle or state objection to and intent to contest the notice of violation, then an additional notice shall be given the owner, and an additional penalty of \$10.00 shall be charged for the additional notice. All monies due shall be paid to the city treasurer or the police records office of the police department, who shall be accountable therefor.

(Code 1973, § 23-267; Code 1988, § 22-611; Ord. No. 1995-11, § 5, 1-24-1995; Ord. No. 2000-23, § 1, 6-27-2000; Ord. No. 2002-41, § 1, 7-9-2002; Ord. No. 2006-106, § 2, 12-12-2006; Ord. No. 2007-61, § 2, 6-12-2007)

Sec. 22-612. Purpose of levy.

The coins required to be deposited in parking meters, as provided in this division, are hereby levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets and to cover the cost of the supervision, inspection, installation, operation, maintenance, control and use of the parking spaces and regulating the parking of vehicles in the parking meter zones hereby created.

(Code 1973, § 23-268; Code 1988, § 22-612)

Sec. 22-613. Hours, days provisions apply.

The provisions of this division shall apply to parking only between the hours of 8:00 a.m. and 6:00 p.m. and on days other than Saturdays and Sundays; legal holidays declared and observed by the city council, the commonwealth, or the government of the United States; and to parking on special-event days and/or for limited periods of time between the hours of 8:00 a.m. and 6:00 p.m. as designated by the city manager in parking meter zones or portions thereof as identified by the city manager.

(Code 1973, § 23-269; Code 1988, § 22-613; Ord. No. 1989-110, § 1, 12-12-1989; Ord. No. 1991-104, § 1, 11-26-1991; Ord. No. 1995-11, § 6, 1-24-1995; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-614. Construction of division.

Nothing in this division shall alter or affect any existing ordinance, rule or regulation, or any ordinance, rule or regulation hereafter adopted, relating to traffic or parking on any other street, alley, lane or highway, within the city, other than those included within the parking meter zones herein established.

(Code 1973, § 23-270; Code 1988, § 22-614)

Sec. 22-615. Prima facie guilt of owner of vehicle.

The owner of any vehicle parked in violation of this division shall be prima facie guilty of such violation.

(Code 1973, § 23-271; Code 1988, § 22-615)

Sec. 22-616. General penalty for violation.

Except as otherwise provided, any person who shall violate or permit, suffer or allow anyone to violate any of the provisions of this division, shall be punished on conviction, by a fine of not less than \$25.00 and not more than \$100.00.

(Code 1973, § 23-272; Code 1988, § 22-616; Ord. No. 1995-11, § 7, 1-24-1995; Ord. No. 2002-41, § 1, 7-9-2002)

Secs. 22-617—22-630. Reserved.

DIVISION 3. METERED PARKING LOTS

Sec. 22-631. Designation.

The following described parcels of land, or portions thereof, owned or leased by the city are hereby designated as metered off-street parking lots and garages:

- (1) *Civic Center Parking Lot.* The parcel of land in the square bounded by King Street extended, Water Street, Columbia Street and the Southern Branch of the Elizabeth River shall be known and designated as the "Civic Center Parking Lot."
- (2) *Courthouse Museum Parking Lot.* The parcel of land located on the west side of the 400 block of Court Street and adjacent to the 1846 Courthouse Museum shall be known and designated as the "Courthouse Museum Parking Lot."
- (3) *King Square Parking Lot.* The parcel of land located between the 400 blocks of County Street and King Street shall be known and designated as the "King Square Parking Lot."
- (4) *Proctor Square Parking Lot.* The parcel of land located between the 700 blocks of County and King Streets shall be known and designated as the "Proctor Square Parking Lot."
- (5) *Water Street Parking Garage.* The parking garage located between the 500 blocks of Water and Crawford Streets immediately north of the City of Portsmouth Civic Center complex, shall be known and designated the "Water Street Parking Garage."
- (6) *Central Parking Garage.* The parking garage located at the southeast corner of the intersection of Crawford and Columbia Streets shall be known and designated as the "Central Parking Garage."

(Code 1973, § 23-278; Code 1988, § 22-631; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-632. Duties generally of city manager.

In the off-street parking lots referred to in section 22-631, the city manager or his designee shall provide for the regulation, control, operation and use of the parking spaces and parking meters in such off-street parking lots.

(Code 1973, § 23-280; Code 1988, § 22-632)

Sec. 22-633. Designation of spaces and installation of meters by city manager.

In the off-street parking lots referred to in section 22-631, the city manager or his designee is hereby directed to have markings painted or placed for each parking space defining the space set apart for the parking of a motor vehicle and to have a parking meter placed or set to serve each such parking space.

(Code 1973, § 23-281; Code 1988, § 22-633)

Sec. 22-634. Parking to be in spaces.

Each vehicle using a parking space designated in section 22-633 shall be parked or placed within the lines or markings established as provided in such section. It shall be unlawful for any person to park any vehicle in an off-street parking lot referred to in section 22-631 except within a parking space so designated or to park any vehicle across any line or marking or to park a vehicle in such position that the same shall not be entirely within the area so designated by the lines or markings.

(Code 1973, § 23-282; Code 1988, § 22-634)

Sec. 22-635. How meters placed and installed.

Parking meters installed pursuant to section 22-633 shall be placed or set in such manner as to show or display by a signal that the space served by such meter is or is not legally in use. The parking meters shall be installed and set to display upon deposit of the requisite coins of the United States or the equivalent in tokens issued pursuant to regulations promulgated by the city manager or his designee a signal indicating legal parking for the designated period, and the parking space shall then be legally occupied by the motor vehicle during such period.

(Code 1973, § 23-283; Code 1988, § 22-635)

Sec. 22-636. Front of vehicle to be parked by meter.

Any motor vehicle parking in any off-street parking lot as enumerated in section 22-631 shall be parked with the foremost part of the vehicle directly at or next to the parking meter.

(Code 1973, § 23-284; Code 1988, § 22-636)

Sec. 22-637. Operation of meters; overtime parking generally.

- (a) The fee for parking at a meter in any off-street parking lot and garage of the city shall be as established in appendix A of this Code.
- (b) When any vehicle is parked in any metered space in any off-street parking lot or garage of the city designated in section 22-631, the driver shall, upon entering the parking space, immediately deposit or cause to be deposited a coin of the United States, or the equivalent in tokens issued pursuant to regulations promulgated by the city manager or his designee, in the meter provided for the space, as required by the legend on the meter, and such parking space shall then be lawfully occupied by the vehicle during the period as may be indicated by the legend, which is herein prescribed as the period of parking time allowed for the use of the space. If the vehicle shall remain parked in such parking space beyond the parking time limit during which the same is lawfully occupied, the parking meter shall display a sign or signal showing illegal parking, and in such event the vehicle parking in the parking space shall be considered as parked overtime

and beyond the period of legal parking time, and the parking of a vehicle overtime or beyond the period of legal parking time in such parking space shall be unlawful.

(Code 1973, § 23-285; Code 1988, § 22-637; Ord. No. 2011-22, § 1, 5-4-2011)

Editor's note(s)—Sec. 3 of Ord. No. 2011-22 states that this ordinance will take effect on July 1, 2011.

Sec. 22-638. Owner not to allow parking overtime.

It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle registered in the name of such person to be parked overtime or beyond the period of legal parking in any parking space in any off-street parking lot of the city referred to in section 22-631.

(Code 1973, § 23-286; Code 1988, § 22-638)

Sec. 22-639. Occupation of space when signal indicates overtime parking.

It shall be unlawful for any person to permit a vehicle to remain or be placed in a parking space in any parking lot of the city referred to in section 22-631 while the meter adjacent to and regulating the time of parking in the space is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the time allowed in the space.

(Code 1973, § 23-287; Code 1988, § 22-639)

Sec. 22-640. Deposit of coin for purpose of extending time prohibited.

It shall be unlawful for any person to deposit or cause to be deposited in a parking meter any coin or token issued pursuant to regulations promulgated by the city manager or his designee for the purpose of extending the parking time beyond the time allowed on the meter. Upon conviction of a violation of this section, the defendant shall be punished as provided in section 22-644.

(Code 1973, § 23-288; Code 1988, § 22-640)

Sec. 22-641. Defacing, injuring, tampering with, etc., meters.

It shall be unlawful and a class 1 misdemeanor for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this division.

(Code 1973, § 23-289; Code 1988, § 22-641)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11; authority of city manager to offer rewards in cases involving damage to city property, § 2-167; damaging city property generally, § 24-318.

Sec. 22-642. Procedure in case of violation.

- (a) It shall be the duty of each police officer, or uniformed city employee or appointee whose normal duties include parking enforcement, acting in accordance with instructions issued by the chief of police, to report:
 - (1) The number of each parking meter that indicated that a vehicle occupying the parking space adjacent to such parking meter is or has been parked in violation of any of the provisions of this division.
 - (2) The state license number and/or any other identifying information of such vehicle.

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- (3) The length of time during which such vehicle is parked in violation of any of the provisions of this division.
- (4) Any other facts, knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.
- (b) Each police officer or other uniformed City employee or appointee whose normal duties include parking enforcement, shall attach to the vehicle a notice to the owner thereof; that the vehicle has been parked in violation of a provision of this division and instructing the owner to report to the city treasurer or the police records office of the police department in regard to such violation, and to pay the penalty or state objection to and intent to contest the notice of violation. Each owner may, within 14 days of the time when such notice was attached to the vehicle, pay a penalty in the sum of \$25.00 for violation of any of the provisions of this division. Provided, however, the penalty for an expired meter violation in the Downtown Business District, as defined in section 22-582, shall be \$15.00. If the owner of the vehicle fails to make the payment within 14 days of the time when such notice was attached to the vehicle or state objection to and intent to contest the notice of violation, then an additional notice shall be given the owner, and an additional penalty of \$10.00 shall be charged for the additional notice. All monies shall be paid to the city treasurer or the police records office of the police department, who shall be accountable therefor.

(Code 1973, § 23-290; Code 1988, § 22-642; Ord. No. 1995-11, § 8, 1-24-1995; Ord. No. 2000-23, § 1, 6-27-2000; Ord. No. 2002-41, § 1, 7-9-2002; Ord. No. 2006-106, § 2, 12-12-2006; Ord. No. 2007-61, § 2, 6-12-2007)

Sec. 22-643. Hours, days provisions apply.

The provisions of this division shall apply to parking only between the hours of 8:00 a.m. and 6:00 p.m. and on days other than Saturdays and Sundays and legal holidays declared and observed by the council of the city, the commonwealth, or the government of the United States.

(Code 1973, § 23-291; Code 1988, § 22-643; Ord. No. 1989-110, § 1, 12-12-1989; Ord. No. 1995-11, § 9, 1-24-1995; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-644. General penalty for violations.

Except as otherwise provided, any person who shall violate or permit, suffer or allow anyone to violate any of the provisions of this division shall be punished, on conviction, by a fine of not less than \$25.00 or more than \$100.00.

(Code 1973, § 23-292; Code 1988, § 22-644; Ord. No. 1995-11, § 10, 1-24-1995; Ord. No. 2002-41, § 1, 7-9-2002)

Secs. 22-645—22-660. Reserved.

DIVISION 4. UNMETERED PARKING LOTS AND GARAGES

Sec. 22-661. Designation of lots and garages of the city.

The following described parcels of land and parking garages, or portions thereof, owned, leased, controlled, operated or used by the city are designated as city unmetered parking lots and garages for the purposes of this division:

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- (1) *Civic Center Parking Garage.* The underground parking structure, located immediately north of Columbia Street between Crawford and Water Streets, shall be known and designated as the "Civic Center Parking Garage."
 - (2) *Court Street Parking Lot.* The parcel of land in Olde Towne, located on the west side of Court Street between 358 and 366 Court Street, shall be known and designated as the "Court Street Parking Lot."
 - (3) *Elizabeth Square Parking Lot.* The parcel of land in Olde Towne, located at the northeast corner of the intersection of Court and Glasgow Streets, shall be known and designated as the "Elizabeth Square Parking Lot."
 - (4) *Glasgow Square Parking Lot.* The parcel of land in Olde Towne, located on the south side of the 300 block of Glasgow Street, shall be known and designated as the "Glasgow Square Parking Lot."
 - (5) *Greenwich Square Parking Lot.* The parcel of land in Olde Towne, located on the north and south sides of the 500 block of Glasgow Street, shall be known and designated as the "Greenwich Square Parking Lot."
 - (6) *Hampton Place Parking Lot.* The parcel of land in Olde Towne, located on the south side of the 500 block of Hamilton Place between 511 and 519 Hampton Place, shall be known and designated as the "Hampton Place Parking Lot."
 - (7) *Norfolk Square Parking Lot.* The parcel of land in Olde Towne, located behind and to the east and west of 211 North Street, shall be known and designated as the "Norfolk Square Parking Lot."
 - (8) *North Street Parking Lot.* The parcel of land in Olde Towne, located north of the 400 block of North Street and behind 424-432 North Street, shall be known and designated as the "North Street Parking Lot."
 - (9) *Red Lion Square Parking Lot.* The parcel of land in Olde Towne, located between the 200 block of Glasgow Street and London Boulevard, having its entrance east of 219 London Boulevard, shall be known and designated as the "Red Lion Square Parking Lot."
 - (10) *Waverly Parking Lot.* The parcel of land in Olde Towne, located on the south side of Waverly Boulevard behind 411 and 415 Waverly Boulevard with access to Dinwiddie Street, shall be known and designated as the "Waverly Parking Lot."

(Code 1973, § 23-293; Code 1988, § 22-661; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-662. Designation of lots and garages of parking authority.

The following described parcels of land and parking garages controlled, operated or used by the city parking authority are hereby designated as unmetered city parking authority parking lots and garages for the purposes of this division:

- (1) *Central Parking Garage.* The garage structure, located at the southeast corner of the intersection of Crawford and Columbia Streets, shall be known and designated as the "Central Parking Garage."
- (2) *Civic Center Parking Lot.* The parcel of land in the square bounded by High Street extended, Water Street, and Columbia Street shall be known and designated as the "Civic Center Parking Lot."
- (3) *Columbia Street Parking Lot.* The parcel of land bounded on the north by Columbia Street, on the west by Guardian Way, and on the east by Crawford Street shall be known and designated as the "Columbia Street Parking Lot."

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- (4) *Water Street Parking Garage.* The parking garage, located between the 500 blocks of Water and Crawford Streets immediately north of the City of Portsmouth Civic Center complex, shall be known and designated as the "Water Street Parking Garage."
 - (5) *County Street Parking Garage.* The parking garage, located on the north side of the 200-300 blocks of County Street, shall be known and designated as the "County Street Parking Garage."
 - (6) *Harbor Court Parking Garage.* The parking garage, located on the north side of Harbor Court, shall be known and designated as the "Harbor Court Parking Garage."
 - (7) *King Square Parking Lot.* The parcel of land, located between the 400 blocks of County Street and King Street, shall be known and designated as the "King Square Parking Lot."
 - (8) *Middle Street Parking Garage.* The parking garage located on the south side of the 200 block of London Street east of Middle Street shall be known as the "Middle Street Parking Garage."
 - (9) *Proctor Square Parking Lot.* The parcel of land, located between the 700 blocks of County and King Streets, shall be known as the "Proctor Square Parking Lot."

(Code 1973, § 23-294; Code 1988, § 22-662; Ord. No. 2002-66, § 1, 11-26-2002)

Sec. 22-663. Duties generally of city manager.

- (a) In the off-street parking lots and garages referred to in section 22-661, the city manager or his designee shall provide for the regulation, control, operation and use of the parking spaces in such off-street parking lots and garages.
- (b) The city manager or his designee shall have lines or markings painted or placed on the sides of each parking space defining the space set apart for the parking of a motor vehicle.

(Code 1973, § 23-295; Code 1988, § 22-663)

Sec. 22-664. Violation of regulations of parking authority and city.

- (a) It shall be unlawful for any person to violate any regulation relating to parking on lots or in garages designated in sections 22-661 and 22-662. Violators shall be proceeded against as hereinafter set forth.
- (b) It shall be the duty of each police officer, or other uniformed city employee or appointee whose duties include parking enforcement, to report, with regards to any violations of subsection (a) of this section:
 - (1) Where applicable, the number of each reserved space that is subject to a violation of subsection (a) of this section;
 - (2) The state license number and/or any other identifying information of each vehicle occupying a reserved space in violation of subsection (a) of this section;
 - (3) The length of time during which a vehicle is parked in violation of subsection (a) of this section;
 - (4) Any other facts, knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.
- (c) Each police officer or uniformed city employee or appointee whose normal duties include parking enforcement, shall attach to the vehicle a notice to the owner thereof, that the vehicle has been parked in violation of a provision of such regulation and instructing such owner to report to the city treasurer or the police records office of the police department in regard to such violation, and to pay the penalty or state objection to and intent to contest the notice of violation. Each owner may, within 14 days of the time when

such notice was attached to the vehicle, pay a penalty in the sum of \$25.00 for violation of any of the provisions of such regulation. Provided, however, the penalty for an overtime parking violation in the Downtown Business District, as defined in section 22-582, shall be \$15.00. If the owner of the vehicle fails to make the payment within 14 days of the time when the notice was attached to the vehicle or state objection to and intent to contest the notice of violation, then an additional notice shall be given the owner, and an additional penalty of \$10.00 shall be charged for the additional notice. Failure of such owner to pay the penalty for the violation and the \$10.00 for the additional notice within 14 days from the date of such notice shall render the owner subject to the penalty provided in section 22-666.

(Code 1973, § 23-296; Code 1988, § 22-664; Ord. No. 1995-11, § 11, 1-24-1995; Ord. No. 2000-23, § 1, 6-27-2000; Ord. No. 2002-41, § 1, 7-9-2002; Ord. No. 2006-106, § 2, 12-12-2006; Ord. No. 2007-61, § 2, 6-12-2007)

Sec. 22-665. Removal, storage of vehicles unlawfully parked on parking lots and garages of parking authority.

- (a) The city parking authority may cause any motor or other vehicle, occupying, without its permission or in violation of this division or any regulation of the parking authority, any parking lot or garage owned, operated, leased or controlled by the parking authority, to be removed by the police department and to be placed in such storage facility as may be designated by the city manager.
- (b) Prior to the removal of any vehicle, the parking authority shall notify the police dispatcher of such removal and shall provide the police dispatcher with the license number and state of issuance of the license and, if known, the vehicle identification number and the make, model and model year of the vehicle to be towed.
- (c) In the event of such removal and storage, the owner of the vehicle involved shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage.

(Code 1973, § 23-297; Code 1988, § 22-665)

Sec. 22-666. Penalty.

Except as otherwise provided, any person who shall violate or permit, suffer or allow anyone to violate any of the provisions of this division shall be punished, on conviction, by a fine of not less than \$25.00 or more than \$100.00.

(Code 1973, § 23-298; Code 1988, § 22-666; Ord. No. 1995-11, § 12, 1-24-1995)

Secs. 22-667—22-685. Reserved.

ARTICLE X. SPECIAL REQUIREMENTS FOR OPERATION OF MOTORCYCLES

Sec. 22-686. Operator to ride only on permanent seat; carrying passengers.

A person operating a motorcycle, excluding four-wheeled and three-wheeled vehicles, shall ride only upon the permanent and regular seat attached to the motorcycle, and such operator shall not carry any other person, and no other person shall ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the seat for the operator. If such motorcycle is designed to carry more than one person, it shall also be equipped with a footrest, for the use of such passenger.

(Code 1973, § 23-80; Code 1988, § 22-686; Ord. No. 1994-72, § 1, 6-28-1994)

Cross reference(s)—Penalty for class 3 misdemeanor, § 1-11.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-911.

Sec. 22-687. Safety devices for protection of operator and passengers.

- (a) A person operating a motorcycle shall wear a face shield, safety glasses or goggles or have his motorcycle equipped with safety glass or windshield at all times while operating such vehicle, and operators and passengers thereon, if any, shall wear protective helmets. Operators and passengers riding on motorcycles with wheels of eight inches or less in diameter shall not be required to wear protective helmets. Failure to wear a face shield, safety glasses or goggles or protective helmets shall not constitute negligence per se in any civil proceeding.
- (b) No motorcycle operator shall use any face shield, safety glasses or goggles or have his motorcycle equipped with safety glass or a windshield unless of a type approved by the superintendent of state police.

(Code 1973, § 23-80; Code 1988, § 22-687; Ord. No. 1994-72, § 1, 6-28-1994)

Cross reference(s)—Penalty for class 3 misdemeanor, § 1-11.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-911.

Sec. 22-688. Mopeds, motorized push scooters; safety devices for protection of operator and passengers.

- (a) Every person operating or riding on a moped or motorized push scooter on a public street or highway shall wear a face shield, safety glasses or goggles of a type approved by the superintendent or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and operators and passengers thereon shall wear protective helmets of a type approved by the superintendent of state police.
- (b) Every person operating a motorized push scooter on a public street or highway shall wear a helmet meeting the standards of the superintendent of state police or of the consumer product safety commission, if the superintendent does not establish such standards.
- (c) Any person who knowingly violates this section shall be guilty of a traffic infraction and shall be subject to a fine of not more than \$50.00.

(Code 1988, § 22-688; Ord. No. 1989-61, § 2, 6-27-1989; Ord. No. 2005-104, § 1, 11-22-2005)

Secs. 22-689—22-700. Reserved.

ARTICLE XI. PEDESTRIANS

Sec. 22-701. Obedience to signs, police.

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic and they shall obey the orders of police officers engaged in directing travel and traffic on the highways and streets. Violations of this section shall be punished by a fine not exceeding \$50.00 for each offense.

(Code 1973, § 23-330; Code 1988, § 22-701)

State law reference(s)—Authority for above section, Code of Virginia, § 46.2-935.

Sec. 22-702. Crossing highways or streets generally.

- (a) When crossing highways or streets, pedestrians shall not carelessly or maliciously interfere with the orderly passage of vehicles. Pedestrians shall cross wherever possible only at intersections or marked crosswalks. Where any intersection of highways or streets contains no marked crosswalks, pedestrians shall not be guilty of negligence as a matter of law for crossing at any such intersection or between intersections when crossing by the most direct route.
- (b) Pedestrians may cross an intersection diagonally when all traffic entering the intersection has been halted by lights or signals by a peace or police officer.

(Code 1973, § 23-331; Code 1988, § 22-702)

State law reference(s)—Provisions similar to subsection (a) and authority for subsection (b), Code of Virginia, § 46.2-923.

Sec. 22-703. Right-of-way generally.

- (a) The driver of any vehicle upon a highway or street shall yield the right-of-way to a pedestrian crossing such highway or street within any clearly marked crosswalk whether at mid-block or at the end of any block, or any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block, or at any intersection when the driver is approaching on a highway or street where the legal maximum speed does not exceed 35 miles per hour except at intersections or crosswalks where the movement of traffic is being regulated by traffic officers or traffic direction devices where the driver shall yield according to the direction of the traffic officer or device.
- (b) No pedestrian shall enter or cross an intersection in disregard of approaching traffic.
- (c) The drivers of vehicles entering, crossing or turning at intersections shall change their course, slow down or come to a complete stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.
- (d) Pedestrians crossing highways or streets at intersections shall at all times have the right-of-way over vehicles making turns into the highways or streets being crossed by the pedestrians.

(Code 1973, § 23-332; Code 1988, § 22-703)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-924.

Sec. 22-704. Stepping where they cannot be seen.

Pedestrians shall not step into that portion of a highway or street open to moving vehicular traffic at a point between intersections where their presence would be obscured from the vision of drivers of approaching vehicles by a vehicle or other obstruction at the curb or side, except to board a passenger bus or to enter a safety zone, in which event they shall cross the highway or street only at right angles.

(Code 1973, § 23-333; Code 1988, § 22-704)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-926.

Sec. 22-705. Entering or leaving buses.

When actually boarding or alighting from passenger buses, pedestrians shall have the right-of-way over vehicles, but shall not, in order to board or alight from passenger buses, step into the highway or street sooner nor remain there longer than is absolutely necessary.

(Code 1973, § 23-334; Code 1988, § 22-705)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-927.

Sec. 22-706. Walking on roadways.

Pedestrians shall not use the highways or streets, other than the sidewalk thereof, for travel, except when necessary to do so because of the absence of sidewalks, reasonably suitable and passable for their use, in which case, if they walk upon the hard surface, or the main traveled portion of the roadway, they shall keep to the extreme left side or edge thereof, or where the shoulders of the highway are of sufficient width to permit, they may walk on either shoulder thereof.

(Code 1973, § 23-335; Code 1988, § 22-706)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-928.

Sec. 22-707. Soliciting rides, employment or business.

No person shall stand or stop in any street or roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(Code 1973, § 23-329; Code 1988, § 22-707)

State law reference(s)—Soliciting rides, Code of Virginia, § 46.2-929.

Sec. 22-708. Playing on streets, highways, sidewalks; use of roller skates, toys, or other devices on wheels or runners.

- (a) No person shall play on a highway or street, other than upon the sidewalks thereof, within the city. No person shall use on a highway or street where play is prohibited on roller skates, toys or other devices on wheels or runners, except bicycles, mopeds, motorized push scooters and motorcycles.
- (b) On highways or streets where play is prohibited, the city manager may designate areas in which persons may be permitted to use roller skates, toys or other devices on wheels and runners, and, if such highways or streets have two traffic lanes, such persons using such devices, except bicycles, mopeds, motorized push scooters and motorcycles, shall keep as near as reasonably possible to the extreme left side or edge of the left hand lane so that they will be facing oncoming traffic at all times.
- (c) No person riding upon any moped, motorized push scooters, roller skates, toys or other devices on wheels or runners shall at the same time attach the same or himself to any vehicle upon a roadway.
- (d) No person operating a moped, motorized push scooter, or other device on wheels or runners shall tow any person on a bicycle, skateboard, skates, or any other vehicle or method of conveyance.
- (e) No person shall operate a moped or motorized push scooter on a public sidewalk.

(Code 1973, § 23-336; Code 1988, § 22-708; Ord. No. 2005-104, § 1, 11-22-2005)

Cross reference(s)—Provisions similar to subsection (c) above applicable to bicycle riders, § 5-65.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-932.

Sec. 22-708.1. Mopeds, motorized push scooters; age of operators.

No person under 16 years of age shall ride a moped or motorized push scooter on any street within the city. A violation of this subsection shall constitute a traffic infraction punishable by a fine of no more than \$50.00.

(Code 1988, § 22-708.1; Ord. No. 2005-104, § 2, 11-22-2005)

Sec. 22-708.2. Motorized push scooters to be operated during daylight.

No person shall operate a motorized "push scooter" as defined in section 22-1 on any highways, city streets or public property between sundown and sunrise. In no event shall a motorized push scooter be operated on any highway, city street or public property later than 7:00 p.m. or earlier than 9:00 a.m.

(Code 1988, § 22-708.2; Ord. No. 2005-104, § 2, 11-22-2005)

Sec. 22-709. Duty of driver approaching pedestrian guided by dog or carrying white or metallic cane.

- (a) Whenever a totally or partially blind pedestrian is crossing or attempting to cross a public street or highway guided by a dog or carrying a cane, which is predominantly metallic or white in color, with or without a red tip, the driver of every vehicle approaching the intersection or place of crossing shall bring his vehicle to a full stop before arriving at such intersection or place of crossing, unless such intersection or place of crossing is controlled by a law enforcement officer or traffic light.
- (b) Any person violating any provision of this section shall be guilty of a class 3 misdemeanor.

(Code 1973, § 23-338; Code 1988, § 22-709; Ord. No. 1990-69, § 1, 6-26-1990)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-933.

Sec. 22-710. Construction of section 22-709; failure to use cane or guide dog not contributory negligence.

Nothing contained in section 22-709 shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick or to be guided by a guide dog upon the streets, highways or sidewalks of this city be held to constitute nor be evidence of contributory negligence.

(Code 1973, § 23-341; Code 1988, § 22-710)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-934.

Sec. 22-711. Unlawful carrying of metallic or white cane.

(a) It shall be unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red.

(b) A violation of this section shall constitute a class 4 misdemeanor.

(Code 1973, § 23-339; Code 1988, § 22-711)

Cross reference(s)—Penalty for class 4 misdemeanor, § 1-11.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-212.1.

Secs. 22-712—22-730. Reserved.

ARTICLE XII. GARAGES AND REPAIR SHOPS

Sec. 22-731. Authority of police to inspect vehicles.

Any police officer who shall be in uniform or shall exhibit a badge or other sign of authority shall have the right to inspect any motor vehicle, trailer or semitrailer in any public garage or repair shop, for the purposes of locating stolen motor vehicles, trailers and semitrailers and for investigating the title and registration of motor vehicles, trailers and semitrailers. For such purpose, the owner of any such garage or repair shop shall permit any such police officer, without let or hindrance to make investigation as herein authorized.

(Code 1973, § 23-8; Code 1988, § 22-731)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-110.

Sec. 22-732. Reports—Vehicle struck by bullet.

The person in charge of any garage or repair shop to which is brought any motor vehicle that shows evidence of having been struck by a bullet shall report to the nearest police station or to the state police, within 24 hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of the vehicle if known.

(Code 1973, § 23-9; Code 1988, § 22-732)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-109.

Sec. 22-733. Same—Unclaimed vehicles.

The person in charge of any public garage or repair shop or automotive service or storage or parking place shall report to the nearest police station or to the state police any motor vehicle left unclaimed in his place of business for more than two weeks when he does not of his own knowledge know the name of the owner and the reason for such storage.

(Code 1973, § 23-11; Code 1988, § 22-733)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1218.

Sec. 22-734. Same—Vehicles with certain equipment.

The person in charge of any garage or repair shop shall, within 24 hours, report to the chief of police or the superintendent of state police any motor vehicle, other than an authorized police or fire department vehicle, brought to his place of business upon which is discovered any bulletproof glass or any smoke screen device of any nature.

(Code 1973, § 23-10; Code 1988, § 22-734)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-109.

Sec. 22-735. Same—Forms.

The reports required by sections 22-732 through 22-734 shall be made in writing on appropriate forms furnished by the city or the superintendent of state police, as the case may be.

(Code 1973, §§ 23-9—23-11; Code 1988, § 22-735)

Secs. 22-736—22-751. Reserved.

ARTICLE XIII. ACCIDENTS¹¹

Sec. 22-752. Duties of drivers and passengers when property damaged.

- (a) The driver of any vehicle involved in an accident in which a person is killed or injured or in which an attended vehicle or other attended property is damaged shall immediately stop as close to the scene of the accident as possible without obstructing traffic, as provided in Code of Virginia, § 46.2-888, and report his name, address, driver's license number and the vehicle registration number forthwith to the chief of police and to the person struck and injured if such person appears to be capable of understanding and retaining the information, or to the driver or some other occupant of the vehicle collided with or to the custodian of other damaged property. The driver shall also render reasonable assistance to any person injured in such accident, including taking such injured person to a physician, surgeon, or hospital if it is apparent that medical treatment is necessary or is requested by the injured person. Where, because of injuries sustained in the accident, the driver is prevented from complying with the foregoing provisions of this section, the driver shall, as soon as reasonably possible, make the required report to the state police or local law enforcement agency and make a reasonable effort to locate the person struck, or the driver or some other occupant of the vehicle collided with, or the custodian of the damaged property, and report to such person or persons his name, address, driver's license number, and vehicle registration number.
- (b) If the driver fails to stop and make the report required by subsection (a) of this section, every person 16 years of age or older in the vehicle with the driver at the time of the accident who has knowledge of the accident shall have a duty to ensure that a report is made within 24 hours from the time of the accident to the chief of police. The report shall include his name, address and such other information within his knowledge as the driver must report pursuant to subsection (a) of this section.

¹¹Cross reference(s)—Tow trucks, § 37-246 et seq.

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- (c) The driver of any vehicle involved in an accident in which no person is killed or injured but in which an unattended vehicle or other unattended property is damaged shall make a reasonable effort to find the owner or custodian of such property and shall report to the owner or custodian the information which the driver must report pursuant to subsection (a) of this section if such owner or custodian is found. If the owner or custodian of such damaged vehicle or property cannot be found, the driver shall leave a note or other sufficient information including driver identification and contact information in a conspicuous place at the scene of the accident and shall report the accident in writing within 24 hours to the chief of police. Such note or other information and written report shall contain the information that the driver must report pursuant to subsection (a) of this section. The written report shall, in addition, state the date, time and place of the accident and the driver's description of the property damage. Where, because of injuries sustained in the accident, the driver is prevented from complying with the foregoing provisions of this section, the driver shall, as soon as reasonably possible, make the required report to the chief of police and make a reasonable effort to locate the owner or custodian of the unattended vehicle or property and report to him the information required by subsection (a) of this section.
- (d) If the driver fails to stop and make a reasonable search for the owner or custodian of an unattended vehicle or property or to leave a note for such owner or custodian as required by subsection (c) of this section, every person 16 years of age or older in the vehicle with the driver at the time of the accident who has knowledge of the accident shall have a duty to ensure that a report is made within 24 hours from the time of the accident to the chief of police. The report shall include his name, address and such other facts within his knowledge as are required by subsection (c) of this section to be reported by the driver.
- (e) The reports required by this section are in addition to other accident reports required by this article or state law and shall be made irrespective of the amount of property damage involved.
- (f) The provisions of this section shall apply irrespective of whether such accident occurs on the public streets or highways or on private property.
- (g) Any person convicted of violating this section shall, if such accident results in injury to or the death of any person, be guilty of a class 6 felony. If such accident results only in damage to property, the person so convicted shall be guilty of a class 1 misdemeanor; however, if the vehicle or other property struck is unattended and such damage is less than \$250.00, such person shall be guilty of a class 4 misdemeanor. A motor vehicle operator convicted of a class 4 misdemeanor under this section shall be assigned three demerit points by the state commissioner of the department of motor vehicle.
- (h) Any person convicted of violating the provisions of this section may be punished, in addition to the penalties provided in this section for such violation, if such accident resulted only in damage to property and such damage exceeded \$500.00, by suspension of his license or privilege to operate a motor vehicle on the highways of this state for a period not to exceed six months by the court. This subsection shall in no case be construed to limit the authority or duty of the commissioner of the state department of motor vehicles with respect to revocation of licenses for violation of this section or of Code of Virginia, §§ 46.2-894—46.2-897, as provided in Code of Virginia, § 46.2-364 et seq. Any license revoked under the provisions of this subsection shall be surrendered to the court to be disposed of in accordance with the provisions of Code of Virginia, § 46.2-398.

(Code 1973, §§ 23-304—23-306; Code 1988, § 22-752; Ord. No. 1989-83, 9-26-1989; Ord. No. 1993-15, § 1, 2-9-1993)

State law reference(s)—Provisions similar to subsections (a)—(f) and duties of drivers and passengers when accident results in personal injury or death, Code of Virginia, §§ 46.2-894—46.2-899; provisions similar to subsections (g) and (h), Code of Virginia, §§ 46.2-900, 46.2-901.

Sec. 22-753. Driver to give immediate notice of certain accidents.

The driver of any vehicle involved in any accident resulting in injury or death of any person, or some person acting for such driver, shall immediately give notice of the accident to the police department. A willful failure to make the report required in this section shall constitute a class 4 misdemeanor.

(Code 1973, § 23-308; Code 1988, § 22-753)

Cross reference(s)—Penalty for class 4 misdemeanor, § 1-11.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-371.

Sec. 22-754. Written reports by drivers.

- (a) Any person involved in an accident resulting in injury to or death of any person or property damage or when there is reason to believe a motor vehicle involved in the accident was uninsured at the time of the accident, may make a written report of it to the commissioner of the state department of motor vehicles, on a form prescribed by the state department of motor vehicles.
- (b) If any accident report filed pursuant to the provisions of this article is alleged to be false or inaccurate, the commissioner of the state department of motor vehicles shall withhold any action under this section or imposition of any penalty and shall investigate and determine the true circumstances of the accident, including a determination of the identity of the parties involved.
- (c) The driver of a motor vehicle involved in any accident of which report must be made pursuant to this section shall provide information relating to the certification of insurance or bond if there was in effect at the time of the accident with respect to the motor vehicle involved:
 - (1) A standard provisions automobile liability policy in form approved by the state corporation commission and issued by an insurance carrier authorized to do business in this state or, if the motor vehicle was not registered in this state or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy, or at its most recent renewal, an automobile liability policy acceptable to that commission as substantially the equivalent of a standard provisions automobile liability policy; provided, in either event, that every such automobile liability policy is subject to the limits provided in Code of Virginia, § 46.2-472.
 - (2) Any other form of liability insurance policy issued by an insurance carrier authorized to do business in this state or by a bond; provided that every such policy or bond mentioned herein is subject to limits set out in Code of Virginia, § 46.2-472.
- (d) The chief of police shall forward the certification of insurance or bond to the insurance company or surety company, whichever is applicable, for verification as to whether or not the policy or bond certified was applicable to any liability that may arise out of the accident as to the named insured. A copy of the certification of insurance or bond shall be retained and shall be disclosed pursuant to Code of Virginia, § 46.2-380.

(Code 1973, § 23-309; Code 1988, § 22-754; Ord. No. 1989-83, 9-26-1989)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-372; authority of city to require driver to file accident report, Code of Virginia, § 46.2-381.

Sec. 22-755. Report by investigating officer.

- (a) Every police officer who, in the course of duty, investigates a motor vehicle accident resulting in injury to or death of any person or total property damage to an apparent extent of the minimum amount stated in Code of Virginia, § 46.2-373(A) (as said subsection is amended, restated or moved from time to time) or more, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing participants or witnesses shall, within 24 hours after completing the investigation, forward a written report of the accident to the police department and the state department of motor vehicles. Such report shall include the name of the insurance carrier or of the insurance agent of the automobile liability policy on each vehicle involved in such accident.
- (b) Any report filed pursuant to subsection (a) of this section shall include information as to the speed of each vehicle involved in the accident and the type of vehicles involved in all accidents between passenger vehicles and vehicles or combinations of vehicles used to transport property, and whether any trucks involved in such accidents were covered or uncovered.
- (c) The state department of motor vehicles shall supply copies of accident reports received under this section to the commonwealth transportation commissioner who shall exercise the authority granted to him under Code of Virginia, §§ 46.2-870—46.2-878 to reduce speed limits where accident frequency or severity or other factors may indicate the course of action to be warranted.
- (d) All accident reports made by investigating officers shall be for the confidential use of the police department and other city or state agencies for accident prevention purposes and shall not be used as evidence in any trial, civil or criminal, arising out of any accident. The police department shall disclose from the reports, upon request of any person, the date, time and location of the accident and the names and addresses of the drivers, the owners of the vehicles involved, the injured persons, the witnesses and one investigating officer.

(Code 1973, §§ 23-310, 23-316; Code 1988, § 22-755; Ord. No. 1992-48, § 1, 6-9-1992; Ord. No. 2019-38, § 1, 6-11-2019)

State law reference(s)—Similar provisions, Code of Virginia, §§ 46.2-373, 46.2-379.

Sec. 22-756. Report by person in charge of garage or repair shop.

- (a) The person in charge of any garage or repair shop to which is brought any motor vehicle that shows evidence of having been involved in a serious motor vehicle accident or with evidence of bloodstains shall report to the police department within 24 hours after the motor vehicle is received, giving the engine number, registration and the name and address of the owner or operator of the vehicle if known. Reports required by this section shall be made upon forms furnished by the superintendent of state police.
- (b) All accident reports made by garages pursuant to this article shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other city or state agencies having use for the report for accident prevention purposes.

(Code 1973, §§ 23-313, 23-314; Code 1988, § 22-756)

State law reference(s)—Similar provisions, Code of Virginia, §§ 46.2-376, 46.2-377.

Sec. 22-757. Report forms.

The city shall supply to the police department or other officials, garages and other suitable agencies forms for accident reports and other reports required by this article to be made to the police department, appropriate with respect to the persons required to make such reports and the purpose to be served.

(Code 1973, § 23-312; Code 1988, § 22-757)

State law reference(s)—State department of motor vehicles to prepare and supply, upon request, forms to police department, Code of Virginia, § 46.2-374.

Sec. 22-758. Extent to which reports may be used as evidence.

No report submitted pursuant to this article shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the police department shall furnish upon demand of any person who has or claims to have made such a report or upon demand of any court a certificate showing that a specified accident report has or has not been made to the police department, solely to prove compliance or noncompliance with the requirement that the report be made to the police department.

(Code 1973, § 23-315; Code 1988, § 22-758)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-378.

Sec. 22-759. Certain reports open to inspection by parties in interest.

Any report of an accident made pursuant to sections 22-754, 22-755 or 22-756 shall be for the confidential use of the police department and subject to the provisions of this article. The police department shall make the reports, including the report of the investigating officer, and including any photographs taken by the investigating officers, available for inspection by any person involved or injured in the accident or his attorney or any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident.

(Code 1973, § 23-317; Code 1988, § 22-759)

State law reference(s)—Retention period; reports open to inspection of certain persons, Code of Virginia, § 46.2-380; authority for above section, Code of Virginia, § 46.2-381.

Sec. 22-760. Furnishing copy of report to parties in interest.

The chief of police, upon written request of any person entitled to inspect a report pursuant to section 22-759, shall furnish a copy of such report to such person, for which a fee as set forth in appendix A to this Code shall be charged for each such copy. The chief of police may furnish an extract of the information contained in such report sufficient to identify the accident, the vehicle involved, the driver, owner and insurer of the vehicle and such other information as he shall deem pertinent, upon such form as he shall deem advisable, for which no fee shall be charged.

(Code 1973, § 23-317; Code 1988, § 22-760; Ord. No. 2002-41, § 1, 7-9-2002)

State law reference(s)—Authority to charge fee for reports, etc., Code of Virginia, § 46.2-381.

Sec. 22-761. Reports required by article are in addition to reports required by state law.

The reports of accidents required by this article are in addition to and not in lieu of any reports required by the Code of Virginia, §§ 46.2-371—46.2-388.

(Code 1973, § 23-318; Code 1988, § 22-761; Ord. No. 1989-83, 9-26-1989)

State law reference(s)—Authority of city to require accident reports, Code of Virginia, § 46.2-381.

Sec. 22-762. Leaving scene of accident when directed to do so by officer.

A person shall leave the scene of a traffic accident when directed to do so by a police officer. A violation of this section shall constitute a traffic infraction.

(Code 1973, § 23-307; Code 1988, § 22-762)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-902.

Secs. 22-763—22-785. Reserved.

ARTICLE XIV. ABANDONED VEHICLES GENERALLY¹²

Sec. 22-786. 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 thereof that:

- (1) Is inoperable and is left unattended on public property for more than 48 hours;
- (2) Has remained illegally on public property for a period of more than 48 hours; or
- (3) Has remained on private property, including but not limited to any commercial parking place, motor vehicle storage facility, or establishment for the service, repair maintenance or sale of motor vehicles, whether or not such vehicle was brought onto or left at such property with or without the consent of the owner or person in control of the property for more than 48 hours.

Demolisher means any person whose business is to convert a motor vehicle, trailer or semitrailer into processed scrap or scrap metal or otherwise to wreck, or dismantle such vehicles.

(Code 1973, § 23-245; Code 1988, § 22-786)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1200.

Sec. 22-787. Authority to take into custody.

The city, acting through the chief of police, may take into custody any abandoned motor vehicle. In such connection, the city may employ its own personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations who shall be independent contractors for the purpose of removing, preserving and storing abandoned motor vehicles.

¹²Cross reference(s)—Disposal pursuant to this article of inoperable vehicles removed from private property by city, § 23-49(c).

State law reference(s)—Authority of city to adopt ordinance similar to this article, Code of Virginia, § 46.2-1201. See also, Code of Virginia, §§ 46.2-1213, 46.2-1217.

(Code 1973, § 23-246; Code 1988, § 22-787)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1201.

Sec. 22-788. Notice to owner of vehicle taken into custody.

- (a) If the chief of police takes into custody an abandoned motor vehicle pursuant to section 22-787 he shall notify, within 15 days thereof, by registered or certified mail, return receipt requested, the owner of record of the motor vehicle and all persons having security interest therein of record, that the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any persons having security interest of their right to reclaim the motor vehicle within three weeks after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody and state that the failure of the owner or persons having security interest to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner, and all persons having any security interest, of all right, title and interest in the vehicle, and consent to the sale of the vehicle at a public auction.
- (b) 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 a security interest cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this section. Such notice by publication may contain multiple listings of abandoned motor vehicles. Any such notice shall be within the time requirements prescribed for notice by mail and shall have the same contents required for a notice by mail.
- (c) The consequences and the fact of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section.

(Code 1973, § 23-247; Code 1988, § 22-788)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1202.

Sec. 22-789. Sale.

- (a) If an abandoned motor vehicle has not been reclaimed as provided for in section 22-788, the city, or its authorized agent, shall, notwithstanding the provisions of Code of Virginia, § 46.2-617, sell the vehicle at public auction. The purchaser shall take title to the vehicle free and clear of all liens and claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to, upon application therefor pursuant to Code of Virginia, § 46.2-603, a certificate of title and registration card therefor. The sales receipt at such a sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling, and in such case, no further titling of the vehicle shall be necessary.
- (b) From the proceeds of the sale of an abandoned motor vehicle pursuant to this section, the city, or its authorized agent, shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to section 22-788. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests therein, as their interests may appear, for 90 days, and then shall be deposited into the treasury of the city.

(Code 1973, § 23-248; Code 1988, § 22-789; Ord. No. 1989-83, 9-26-1989)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1203.

Sec. 22-790. Vehicles abandoned in garages.

- (a) Any motor vehicle, trailer, semitrailer or part thereof left for more than ten days in a garage operated for commercial purposes, or for more than ten days after the period when, pursuant to contract, the vehicle was to remain on the premises, after notice, by registered or certified mail, return receipt requested, within 15 days thereof, to the owner of record and all persons having security interests of record therein, to pick up the vehicle, shall be deemed an abandoned motor vehicle, and may be reported by the garagekeeper to the city. All abandoned motor vehicles left in garages may be taken into custody by the city in accordance with section 22-787 and shall be subject to the notice and sale provisions contained in sections 22-788 and 22-789. If, however, such vehicle is reclaimed in accordance with section 22-788, the person reclaiming such vehicle shall, in addition to the other charges required to be paid, pay the charges of the garagekeeper. If such vehicle is sold pursuant to section 22-789, the garagekeeper's charges, if any, shall be paid from, and to the extent of, the excess of the proceeds of the sale after paying the expenses of the auction, the cost of towing, preserving and storing such vehicle which resulted from placing such vehicle in custody and all notice and publication costs incurred pursuant to section 22-788. Except as otherwise provided in this article, nothing herein shall be construed to limit or restrict any rights conferred upon any person under Code of Virginia, §§ 43-32—43-36.
- (b) For the purposes of this section, the term "garagekeeper" means any operator of a commercial parking place, motor vehicle storage facility, or establishment for the servicing, repair, maintenance or sale of motor vehicles whether or not the motor vehicle had been brought to such location with the consent of the owner or person in control of the property.

(Code 1973, § 23-249; Code 1988, § 22-790)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1204.

Sec. 22-791. Demolition of inoperable vehicles.

- (a) Notwithstanding any other provisions of this article, any abandoned motor vehicle which is found, by a person designated by the city manager, to be inoperable and which, by virtue of its condition, cannot be feasibly restored to operable condition, may be disposed of to a demolisher, without the title and without the notification procedures required by this article. The demolisher, upon taking custody of such vehicle, shall notify the state department of motor vehicles, on forms and in the manner prescribed by the commissioner of such department, and notwithstanding any other provision of law, no other report or notice shall be required in such instance.
- (b) Any demolisher who acquires a motor vehicle under this section for purposes of wrecking, dismantling or demolition shall not be required to obtain a certificate of title for the vehicle in his own name. After the vehicle has been demolished, processed or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender to the state department of motor vehicles for cancellation the certificate of title or sales receipt therefor. The department shall issue such forms, rules and regulations governing the surrender of sales receipts and certificates of title as are appropriate.
- (c) A demolisher shall keep an accurate and complete record of all motor vehicles purchased or received by him in the course of his business. These records shall contain the name and address of the person from whom each such motor vehicle was purchased or received and the date when such purchases or receipts occurred. Such records shall be open for inspection by the chief of police at any time during normal business hours.

(Code 1973, §§ 23-250, 23-251; Code 1988, § 22-791)

State law reference(s)—Similar provisions, Code of Virginia, §§ 46.2-1205, 46.2-1206.

Secs. 22-792—22-800. Reserved.

ARTICLE XV. IMPOUNDMENT OF VEHICLES CONSTITUTING TRAFFIC HAZARD OR ILLEGALLY PARKED OR ABANDONED, ETC.¹³

Sec. 22-801. Authorized—Generally.

- (a) The chief of police or any police officer designated by him is hereby authorized and directed to remove or cause to be removed to the city compound designated by the city manager:
 - (1) Any motor vehicle, trailer or semitrailer found on the streets or public grounds of the city unattended by the owner or operator, which vehicle constitutes a hazard to traffic or is parked in such a manner as to be in violation of law.
 - (2) Any motor vehicle, trailer or semitrailer that is left unattended for more than ten days upon any public property or any privately owned property other than the property of the owner of such vehicle or that is abandoned upon such public property or privately owned property without the permission of the owner, lessee or occupant thereof.
 - (3) Any motor vehicle, trailer or semitrailer that is stalled or rendered immobile, as the result of adverse weather conditions or other emergency situations, on any public roadway within the city.
- (b) For the purposes of this section, a motor vehicle, trailer or semitrailer shall be presumed to be abandoned if:
 - (1) It lacks either a current license plate or a valid state inspection certificate or sticker and;
 - (2) It has been at a specific location for four days without being moved.
- (c) No vehicle shall be removed under this section from privately owned premises without the written request of the owner, lessee or occupant thereof. Any person at whose request a vehicle is removed from privately owned property shall indemnify the city against any loss or expense incurred by reason of the removal, storage or sale thereof.

(Code 1973, § 23-233; Code 1988, § 22-801; Ord. No. 2005-61, § 1, 7-26-2005)

Sec. 22-802. Same—When vehicle left on street or public ground for more than three days.

When any motor vehicle, trailer or semitrailer is found unattended, otherwise than as set forth in section 22-801, in the same place on any street or public ground continuously for a period longer than three consecutive days, and the chief of police has given the owner of record of such vehicle at least two days' notice in writing of his intention to remove, or cause to be removed, such vehicle from such street or public ground to the city compound, or has made a diligent attempt to notify such owner, but has been unable to do so, such vehicle shall be considered as abandoned and the chief of police is authorized and empowered to remove, or cause to be removed, the vehicle to the city compound to be there held subject to the conditions and provisions set forth in this article.

(Code 1973, § 23-237; Code 1988, § 22-802)

¹³State law reference(s)—Authority for, and provisions similar to, this article, Code of Virginia, § 46.2-1213.

Sec. 22-803. Procedure when owner appears during process of removal.

If any motor vehicle, trailer or semitrailer is about to be removed or is in process of being removed from the street or public grounds under the provisions of this article and the owner thereof or his agent appears and claims the vehicle and agrees forthwith to remove it from the street or public grounds, the vehicle shall be delivered to such owner or agent upon demand therefor and upon furnishing satisfactory evidence of identity and ownership or agency. If the owner or agent fails, refuses or neglects to forthwith remove the vehicle, it shall be nevertheless removed from the street or public grounds by the city.

(Code 1973, § 23-238; Code 1988, § 22-803)

Sec. 22-804. Report to chief of police and notice to vehicle owner.

The officer removing or causing the removal of any motor vehicle, trailer or semitrailer under this article shall immediately make a written report thereof to the chief of police, setting forth the date, time and place of, and the reason for, such removal, and the license number of the vehicle removed. As promptly as possible after the removal, unless the vehicle has been sooner released, the chief of police shall notify in writing the owner of record of the vehicle, if known, that the vehicle has been impounded.

(Code 1973, § 23-234; Code 1988, § 22-804)

Sec. 22-805. Redemption of vehicle.

- (a) No vehicle impounded under the provisions of this article shall be released or removed from the city compound, except upon payment by the owner thereof, or his duly authorized representative, to the city, who shall issue a receipt therefor of a towing charge in accordance with the schedule of fees set by the city manager in section 37-250, plus a storage charge, if the vehicle has been impounded for a period of more than 24 hours, as set forth in appendix A to this Code, per day or fraction thereof, plus the cost of publication of any notice required by this article, plus cost of investigation as to ownership and liens required by this article. The city manager may release any such vehicle from the city compound without the payment of such charges and costs, or any part thereof, whenever he deems it proper so to do. The owner, or his duly authorized representative, upon delivery of the vehicle to him shall sign a receipt for the same. The payment of the costs herein set forth, or the release of any impounded vehicle without the payment of any or all of such costs, shall not operate to relieve the offender from liability for any fine or penalty for the violation of any law or ordinance on account of which the vehicle was impounded.
- (b) All amounts received by the city for charges and costs as set forth in this section shall be paid to the city treasurer at such times as the city manager shall prescribe.

(Code 1973, §§ 23-235, 23-236; Code 1988, § 22-805; Ord. No. 1991-41, § 1, 5-14-1991; Ord. No. 1996-17, § 1, 3-12-1996)

Sec. 22-806. Sale of vehicle.

- (a) If the owner of any vehicle impounded under this article fails or refuses to pay the charges and costs set forth in this article, or if the identity or whereabouts of the owner is unknown or unascertainable, after a diligent search has been made, and after notice to such owner at his last known address and to the holder of a lien of record in the office of the state department of motor vehicles against the vehicle, the city may, after holding the vehicle 30 days and after due notice of sale, dispose of same at public sale and the proceeds of

such sale shall be forwarded by him to the city treasurer. If the value of the vehicle is determined by three disinterested dealers or garagemen to be less than \$150.00, it may be disposed of by private sale or junked.

- (b) The city shall pay from the proceeds of a sale under this section the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him for the owner and paid to the owner upon satisfactory proof of ownership. If no claim is made by the owner for the proceeds of such sale, after the payment of such costs, the funds, if any, shall be deposited to the general fund of the city. Any such owner shall be entitled to apply to the city within 90 days from the date of such sale, and if timely application is made therefor, the city shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after 90 days from the date of such sale.

(Code 1973, § 23-239; Code 1988, § 22-806)

Sec. 22-807. Sale of personal property found in unattended or abandoned vehicles.

Any personal property found in any unattended or abandoned motor vehicle, trailer or semitrailer may be sold incident to the sale of such vehicle pursuant to this article.

(Code 1973, § 23-227; Code 1988, § 22-807)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1214.

Sec. 27-51. Definition.

As used in this article, the term "unclaimed personal property" shall mean any personal property 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 Uniform Disposition of Unclaimed Property Act, Code of Virginia, § 55-210.1 et seq. Such term shall not apply to bicycles, motor vehicles and their contents, contraband items, lost and found items or currency. Unclaimed bicycles and mopeds may be disposed of in accordance with Code of Virginia, § 15.2-1720. Unclaimed firearms may be disposed of in accordance with Code of Virginia, § 15.2-1721.

(Code 1973, § 29-31; Code 1988, § 27-51; Ord. No. 1990-81, § 1, 6-26-1990)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-1719.

Sec. 27-52. Sale.

- (a) Any unclaimed property which has been in the possession of the police department and unclaimed for a period of more than 60 days shall be subject to public sale or retention for use by the police department. Prior to the sale or retention for use of any unclaimed item by the police department, the chief of police shall make reasonable attempts to notify the rightful owner of the property, obtain from the commonwealth's attorney in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the city once a week for two consecutive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the police department, shall be described generally in the notice together with the date, time and place of the sale and shall be made available for public viewing at the sale.

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- (b) If any goods, wares, merchandise or chattels which are of perishable nature, or which shall be expensive to keep, shall at any time remain unclaimed in the custody of the police department, the chief of police may sell the same at public auction, at such time and after such notice as to him shall seem proper.

(Code 1973, §§ 29-32, 29-33; Code 1988, § 27-52; Ord. No. 1995-44, § 1, 4-25-1995)

Cross reference(s)—Sale of unclaimed bicycles impounded by police department, § 5-38(d).

State law reference(s)—Provisions similar to subsection (a) above, Code of Virginia, § 15.2-1719.

Chapter 32 STREETS, SIDEWALKS AND LOCAL IMPROVEMENTS¹⁴

ARTICLE I. IN GENERAL

Sec. 32-1. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a class 2 misdemeanor.

(Code 1988, § 32-1)

Cross reference(s)—Penalty for class 2 misdemeanor, § 1-11.

Sec. 32-2. Certain ordinances relating to streets not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance relating to the opening, relocation, improvement, closing or naming of any street or alley and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Code 1988, § 32-2)

Sec. 32-3. Determination of street lines in accordance with Sykes map.

The lines made in accordance with the city map prepared by Bascom Sykes, city engineer, and adopted by the council on August 13, 1901, shall be used as the proper lines in defining the centers and widths of all streets shown on such map.

¹⁴Cross reference(s)—Riding bicycles on sidewalks, § 5-66; buildings and building regulations, ch. 7; erosion and sediment control, ch. 11; flood protection, ch. 14; littering streets, § 16-4; litter receptacles required for sidewalks in business districts, § 16-7(b)(1); housing and community development, ch. 17; motor vehicles and traffic, ch. 22; notice to owner or occupant of abutting property to remove weeds or debris from street or sidewalk, §§ 23-27, 23-28; discharging firearm near street, § 24-67; parks and recreation, ch. 25; railroads, ch. 29; subdivisions, ch. 33.1; trimming of trees or other plants overhanging right-of-way, § 36-2; sale of flowers, plants, etc., on streets, § 36-3; trees and shrubs on city property, § 36-26 et seq.; vehicles for hire, ch. 37; water, sewers and sewage disposal, ch. 38; zoning, ch. 40.2.

State law reference(s)—Authority relative to streets and sidewalks, Code of Virginia, § 15.2-2001 et seq.; authority regarding streets, Code of Virginia, § 33.1-224 et seq.

(Code 1973, § 32-1; Code 1988, § 32-3)

State law reference(s)—Survey and plan of cities required, Code of Virginia, § 15.2-2333 et seq.

Sec. 32-4. Establishment, verification of street lines upon erection of structure.

- (a) Prior to erecting a fence or building or other like structure in the city on property bounded by a street, the property owner shall verify the street lines between the city and the lot on which the building, fence or other structure is about to be erected. In the event of hardship, the city engineer may be requested to establish the street lines. For the lines thus established and verified by the city engineer, the party for whose benefit the lines are established shall pay to the city, in advance, an amount as determined by the city engineer based upon the estimated costs that will be incurred, including staff time.
- (b) No person shall erect or attempt to erect any such fence, building or other structure without first complying with this section.

(Code 1973, § 32-2; Code 1988, § 32-4)

Cross reference(s)—Buildings and building regulations, ch. 7.

Sec. 32-5. Application for vacation of street, alley, easement, right-of-way, or other public way; appointment of viewers.

- (a) A fee as set forth in appendix A to this Code shall be paid to the city for processing of an application for the vacation of any street, alley, easement, right-of-way or other public way pursuant to Code of Virginia, §§ 15.2-2006—15.2-2007.1. All closure proceedings shall be commenced by filing an application for closure with the city planner. All applications shall be submitted on forms prescribed by the city planner. The city planner shall not receive any application unless the fee is paid at the time the application is filed.
- (b) On application, the city council may appoint not less than three nor more than five viewers to view any street, alley, easement, right-of-way or other public way and report in writing whether, in their opinion, any and if any what inconvenience would result from discontinuing the same. Such viewers shall be paid a fee as set forth in appendix A to this Code each for their services and same shall be paid by the person making the application to alter or vacate the street or alley.
- (c) As a condition to vacation or abandonment of any street, alley, easement, right-of-way or other public way, the person making the application for closure may, at council's option, be required to purchase from the city the street, alley, easement or other public way for which the vacation or abandonment is requested. The price shall be no greater than its fair market value or its contributory value to the abutting property, whichever is greater, or the amount agreed to by the parties. No such vacation or abandonment shall be concluded until the agreed price has been paid. If any abutting property owner does not make such payment for such owner's fractional portion within one year, or other time period made a condition of the vacation or abandonment, of the government action to vacate or abandon, the vacation or abandonment shall be null and void as to any such property owner. The city and its affiliated political subdivisions, such as the Industrial Development Authority and Portsmouth Redevelopment and Housing Authority, shall be exempt from paying the purchase price in those cases where the affiliated political subdivision becomes the owner of the land in question and is not just acting on behalf of the adjoining property owners.

(Code 1973, § 32-25; Code 1988, § 32-5; Ord. No. 1990-112, § 1, 10-23-1990; Ord. No. 1992-54, § 1, 6-23-1992; Ord. No. 1993-53, § 1, 6-22-1993)

Cross reference(s)—Land book entry when street or alley closed to public use, § 35-69.

Sec. 32-6. Lowering curbs; laying private driveways or ramps.

- (a) No person shall lower or cut the curb on any street, or lay any private driveway or ramp crossing any sidewalk of the city without first obtaining a permit therefor from the city engineer. All such driveways or ramps shall be constructed and installed to the standards and specifications of the city engineer.
- (b) The city engineer, or designee, shall inspect all such work, which shall be subject to such conditions as he may prescribe as to materials used and manner of construction. If a reinspection is required due to a condition caused by the permittee, a reinspection fee as set forth in appendix A to this Code must be paid prior to the reinspection being performed.
- (c) All such driveways or ramps shall be fully paved over their entire width between the edge of the pavement of the street and the property line of the property to be served by such driveway or ramp. All paving and repaving, where necessary, shall be done at the expense of the person receiving such permit.
- (d) It shall be the duty of the owner of such driveway to keep such driveway or ramp in good repair at all times at his own expense.
- (e) Permit fees for driveways shall be as set forth in appendix A to this Code per driveway apron for single-family property, per apron for duplexes, and per driveway apron for all other property. If construction is started prior to obtaining the permit, an administrative fee equal to the permit fee shall also be charged.
- (f) Unless otherwise exempted by the city Code, all new construction shall have at least one driveway apron, and all driveway aprons installed shall meet city Code requirements.

(Code 1973, § 32-3; Code 1988, § 32-6; Ord. No. 2002-43, § 1, 7-9-2002)

Sec. 32-7. Street encroachments generally.

- (a) *Definitions.* The following words when used in this section shall, for the purpose of this section, have the meanings respectively ascribed to them:

City manager means the city manager or his designee.

Encroachment means a foundation, awning, fire escape, shutter, sign, cornice, gutter, downspout, bay window, fence or other appurtenance to a building existing or to be constructed in, upon or over the streets of the city.

Owner means the person who holds legal title to a building or the land upon which it is situated, either or both.

Street means every public way or place of whatever nature in the city including a street, alley, right-of-way, road or highway, whether or not actually or physically opened to public use and travel.

- (b) *Existing encroachments.* Every encroachment existing prior to August 24, 1976, is presumed to have been constructed under authority of a revocable permit, which may be revoked at the pleasure of the city manager.
- (c) *Encroachment permits.* An application for a permit either for construction of a new encroachment or for authorization of an existing encroachment (an "encroachment permit") shall be made as follows:
 - (1) The owner of the property requesting the encroachment permit shall submit a written application. The application shall explain the need for the encroachment, and set forth its design and materials.
 - (2) An application for an existing encroachment shall be accompanied by a physical survey of the property showing the location of the encroachment.

An application for a new encroachment shall be accompanied by a site plan prepared by a professional engineer showing the proposed encroachment and all relevant physical features, boundaries, utilities, and distances.

- (3) An application for a new encroachment shall not be approved until after review by the traffic engineer, the department of planning and community services, the law department, and the city engineer, plus any other review deemed appropriate by the city manager.

An application to authorize an existing encroachment shall not be approved until after review by the traffic engineer and the city engineer, plus any other review deemed appropriate by the city manager.

These reviewing departments may condition their approval on such requirements, conditions, or changes as they deem necessary to protect the public interest, whether for an existing encroachment or for a new encroachment.

- (4) Each encroachment permit shall require that the owner, for himself, his heirs, devisees, successors and assigns shall agree 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 such encroachment and the maintenance, operation and removal thereof; and in the event that any suit or proceeding shall be brought against the city, at law or equity either independently or jointly with such owner on account thereof, the owner will defend the city in any such suit or proceeding at the cost of the owner; and in the event of a final judgment or decree being obtained against the city, either independently or jointly with the owner, then the owner will pay such judgment or comply with such decree with all costs and expenses of whatsoever nature and hold the city harmless therefrom.
- (5) The city manager may, in his discretion, issue an encroachment permit if it has been prepared and reviewed pursuant to this section. The city manager may issue an encroachment permit only if he finds that it is in the public interest, will not comprise a hazard, and will not interfere with the reasonable use of any street. All encroachment permits shall be revocable in the discretion of the city manager.
- (6) An encroachment permit shall, if for new construction, authorize the construction of the encroachment consistent with the application, upon issuance of a building permit under the Uniform Statewide Building Code, where required. An encroachment permit shall authorize the continued location of the encroachment in the public street as per the application, unless and until revoked.
- (7) The city manager may establish and modify from time to time a uniform schedule of fees for the filing of applications for encroachment permits.
- (8) Any encroachment or sign located in the right-of-way and found by the city manager to create a hazardous condition shall be removed immediately by the owner of such object or may be removed and disposed of by the city.
- (d) *Exceptions.* For purposes of this section, a sign placed on the sidewalk portion of the public right-of-way adjoining property in the T4, T5, and T6 subdistricts of the downtown D-1 zoning district shall not be deemed an encroachment, provided that:
- (1) The sign is not permanently affixed to the sidewalk.
 - (2) No part of the sign exceeds 42 inches in height.
 - (3) No sign face exceeds eight square feet.
 - (4) The sign is not illuminated.
 - (5) The sign is of an "A" or "T" frame design.
 - (6) The sign is located immediately in front of the business or activity advertised.
 - (7) Only one sign per building street frontage is placed on the subject right-of-way.

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- (e) *Violations.* It shall be unlawful for any person to cause an encroachment to exist in any street except as permitted pursuant to this section.

(Code 1973, § 32-5; Code 1988, § 32-8; Ord. No. 1999-34, 10-26-1999; Ord. No. 2005-117, § 1, 12-13-2005; Ord. No. 2009-115, § 7, 11-24-2009)

Sec. 32-8. Outdoor dining areas in rights-of-way.

- (a) It shall be unlawful for any person to cause an outdoor dining area to be established in any public right-of-way of the city except as permitted by this section.
- (b) Upon determination that an outdoor dining area will not materially or unreasonably interfere with the use of any public right-of-way or constitute a hazard, the city council or its designee may issue an outdoor dining area permit subject to the following conditions:
- (1) That application be made in writing to the city manager for such permit, in a form satisfactory to the city manager, to which shall be attached a plat of survey or an engineering drawing depicting the area to be occupied by the outdoor dining facility.
 - (2) That the outdoor dining area permit shall be revocable at the pleasure of city council or its designee.
 - (3) That the permit to be issued by the city manager shall provide that the permittee, for himself, his heirs, successors and assigns, shall agree 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 such use and the maintenance, operation and removal thereof; and that in the event that any suit or proceeding shall be brought against the city, at law or in equity, either independently or jointly with such permittee on account thereof, the permittee will defend the city in any such suit or proceeding at the cost of the permittee; and in the event of a final judgment or decree being obtained against the city, either independently or jointly with the permittee, then the permittee will pay such judgment or comply with such decree and pay all costs and expenses of whatsoever nature and hold the city harmless therefrom.
 - (4) That the dining area shall be temporary in that installation shall be in such a manner that posts, chairs, tables, planters or other equipment can be removed during periods of nonuse.
 - (5) That the outdoor dining area may extend into the right-of-way to a maximum of five feet from the property line of the permittee; provided that the outside dining area shall not reduce the open sidewalk width to less than eight feet of pedestrian access at any point.
 - (6) That adequate off-street parking must be provided for any additional tables to meet the zoning ordinance requirements.
 - (7) That any signage pertaining to the outdoor dining area will be in compliance with the zoning ordinance.
 - (8) That the permittee agrees to maintain all equipment, tables, chairs or planters placed in the outdoor dining area.
 - (9) That the issuance of the permit shall not relieve the permittee of the obligation to obtain and maintain in full force and effect any permits required by the department of public health or other applicable state or local agencies or departments.
 - (10) That the permittee shall comply with all applicable codes, ordinances, policies and regulations of federal, state and local governments and shall obtain all necessary licenses and permits.
 - (11) That the permit shall be issued to the applicant and shall not be transferable or assignable without written approval of the city manager.

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- (12) That the city council or its designee may impose such other reasonable conditions, including but not limited to a reasonable rent, as may be deemed appropriate.
 - (13) That the permit shall be renewable annually.
 - (14) That the permit shall be subject to the provisions and conditions contained in section 2.09 of the Charter.
 - (15) That the application fee for each annual permit shall be as set forth in appendix A to this Code. Such application fee shall be nonrefundable.

(Code 1988, § 32-9; Ord. No. 1988-70, 7-12-1988; Ord. No. 1989-44, § 1, 5-15-1989)

Cross reference(s)—Food and food establishment, ch. 15; zoning ordinance, ch. 40.

Sec. 32-9. Obstructing the street and rights-of-way.

Except as otherwise provided by this Code or by other city regulation, it shall be unlawful for any person to leave, or cause to be left, any box, barrel, trash or storage container, or other obstruction in any portion of the street or right-of-way without first obtaining a permit from the city engineer.

(Code 1973, § 32-6; Code 1988, § 32-10)

Sec. 32-10. Lights on street obstructions.

Any person who causes to be placed on any of the streets of the city any building material, house lumber or other obstruction shall place thereon a sufficient number of flashing yellow lighted barricades at night to warn the public of danger.

(Code 1973, § 32-7; Code 1988, § 32-11)

Sec. 32-11. Removal of debris from streets after fire.

The owner of any building which has been burned by fire shall remove from the streets of the city within five days after the occurrence of such fire, all timbers, bricks, and any debris or materials which have fallen upon or been placed upon the streets of the city from such building.

(Code 1973, § 32-8; Code 1988, § 32-12)

Cross reference(s)—Fire prevention and protection, ch. 13.

Sec. 32-12. Stationary showcases and permanent stands prohibited on streets.

It shall be unlawful for any person to place or allow to remain upon the streets of the city stationary showcases or permanent stands.

(Code 1973, § 32-9; Code 1988, § 32-13)

Sec. 32-13. Placement of public telephone booths on streets.

It shall be unlawful for any telephone company licensed to do business within the city to place public telephone booths upon the streets or other public places of the city without having first obtained a permit therefor

from the city manager. Such permits shall be revocable on ten days' notice and the city manager shall designate the location of the booths and may impose such terms and conditions as he may deem proper.

(Code 1973, § 32-10; Code 1988, § 32-14)

Sec. 32-14. Standing of pushcarts on streets.

Except as permitted pursuant to article VI of this chapter, no pushcarts for the sale of fruits or other articles shall be allowed to stand on the streets, except where the same are incidentally stopped for the purpose of making sales therefrom. A violation of this section shall constitute a class 4 misdemeanor.

(Code 1973, § 32-11; Code 1988, § 32-15; Ord. No. 1988-80, § 4, 7-26-1988)

Cross reference(s)—Penalty for class 4 misdemeanor, § 1-11.

Sec. 32-15. Sidewalk barriers required when repairing roof, wall or chimney; throwing material into street or sidewalk.

Any person engaged in building or repairing a roof, wall or chimney on a street shall place sufficient barriers across the sidewalk, to be approved by the city engineer so as to warn against passing under such roof, wall or chimney. No bricks, slate, shingles, or other material shall be thrown from any such roof, wall or chimney, or from any part of any house into the street or sidewalk, except within a space enclosed by such barriers.

(Code 1973, § 32-14; Code 1988, § 32-17)

Sec. 32-16. Maintenance of cellar doors or vaults in sidewalks.

- (a) Every owner of a building on a street, which has a cellar door or vault in a sidewalk shall keep the same in good repair and every such cellar door shall be on a level with the sidewalk. If such a cellar door or vault is found in a state of disrepair, the city engineer shall give notice to the owner to repair the same within 24 hours and it shall be unlawful for the owner to fail or refuse to comply with the notice and every day that elapses after such 24 hours without the repair being made shall constitute a distinct offense. If the owner so fails for 48 hours after the notice, it shall be the duty of the city engineer to cause the repairs to be made at the expense of the city, the expense to be repaid to the city, with 20 percent damages, by the owner.
- (b) If there are several owners of a building referred to in this section, it shall be sufficient to give the notice to any one of them. If the owner resides out of the city, the notice may be given to his agent or to the occupant of the building.

(Code 1973, § 32-15; Code 1988, § 32-18)

Sec. 32-17. Installation of rainwater drains under sidewalks.

- (a) Any resident having property on the line of streets may, after obtaining a permit from the city engineer, 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 is subject to the approval of the city engineer.
- (b) It shall be the responsibility and expense of the property owner to maintain any such drainage pipes under sidewalks. The property owner shall also be responsible for the repair of any damages caused by a failure to maintain such drainage pipes.

(Code 1973, § 32-23; Code 1988, § 32-19)

Sec. 32-18. Drainage of wastewater other than rainwater into streets or gutters.

No wastewater, rainwater excepted, shall be placed or allowed to flow by means of pipes, vessels or otherwise on the streets of the city, or in the gutters thereof, from the lot abutting upon the same.

(Code 1973, § 32-24; Code 1988, § 32-20)

Sec. 32-19. Permit for installation of drainage facilities in streets required.

It shall be unlawful for any person to install or cause to be installed in any street in the city any drainpipe, conduit or other means for the drainage of surface water or any bridge over any drain in any street in the city without first obtaining a permit from the city engineer.

(Code 1973, § 32-25; Code 1988, § 32-21)

Sec. 32-20. Removal of drainage facilities in streets when inadequate; replacement.

All drainpipes, conduits or other means for the drainage of surface water and bridges over drains in the streets of the city deemed inadequate by the city engineer shall be removed upon his order and, if replaced for use of the abutting property, the owner of such property shall pay the costs of replacement.

(Code 1973, § 32-28; Code 1988, § 32-24)

Sec. 32-21. Crossing sidewalks and street curbs with vehicle.

- (a) No person shall cross a sidewalk or street curb with any vehicle, except over a properly constructed driveway.
- (b) If a sidewalk or street curb must be crossed during a construction project, the sidewalk or street curb must be protected from damage by an appropriate method such as laying heavy boards thereon.
- (c) If any damage is done to the sidewalk, curb, or any other portion of the right-of-way by reason of its illegal use, the offender shall pay for the cost of all repairs to the same in addition to any fine that may be imposed for the violation of this section.

(Code 1973, § 32-16; Code 1988, § 32-25)

Sec. 32-22. Hanging of flags, banners or decorations across street or sidewalk.

No flag, banner or decoration shall be hung across any street or sidewalk in the city unless permission is obtained therefor from the city manager.

(Code 1973, § 32-18; Code 1988, § 32-27)

Sec. 32-23. Sales, solicitations, etc., on streets and sidewalks in congested areas.

- (a) No person shall sell or offer to sell any goods, wares, merchandise, books, magazines or any article of value, except newspapers, or take orders for or sell subscriptions to same for future delivery, or render or offer to

render any services other than the shining of shoes, or distribute printed matter on any of the streets and sidewalks paralleling streets which are:

- (1) Designated as parking meter zones in section 22-601 of this Code; or
- (2) Within the fire limits set forth in section 7-106 of this Code;
- (3) Designated in subsection (b) of this section by the city council;

such streets and sidewalks being congested areas for pedestrian travel and use.

- (b) The sidewalks and streets located within the following-described area are hereby designated as congested areas for pedestrian travel and use:

Beginning at the centerlines of the intersection of Crawford Parkway and Effingham Street; thence easterly along the centerline of Crawford Parkway to the centerline of Washington Street; thence north 40 feet to the north right-of-way of Crawford Parkway; thence east along said right-of-way 1,300 feet to a point; thence east along a line projected to the pierhead line in the southern branch of the Elizabeth River established by the U.S. Army Engineers; thence southerly along said pierhead line as it meanders along the southern branch of the Elizabeth River to its intersection with the projected north right-of-way of the Crawford Connector; thence westerly along said right-of-way to its intersection with the north right-of-way of Interstate 264; thence southwesterly along said right-of-way to its point of intersection with the centerline of Effingham Street; thence north along said centerline 325 feet to a point; thence west 210 feet to a point; thence north 350 feet to the centerline of South Street; thence east along said centerline 35 feet to a point; thence north 320 feet ; thence northwest 60 feet ; thence north 190 feet to the centerline of County Street; thence west along said centerline to the centerline of Chestnut Street; thence north along said centerline to its intersection with the centerlines of London Boulevard and Fort Lane; thence north along the centerline of Fort Lane to its intersection with the centerline of North Street projected westerly; thence east along said line to its intersection with the centerline of Effingham Street; thence northerly along said centerline to its intersection with the centerline of Crawford Parkway, the point of origin.

- (c) The prohibition against the sale or distribution of the articles mentioned in this section shall not be construed as prohibiting:
- (1) The actual distribution or circulation, without any charge therefor, to the public, of publications, leaflets, pamphlets, or any printed or written matter that disseminates opinion or information or provokes thought or pertains to any religious information or belief;
 - (2) The city manager from authorizing, by issuing a permit therefor, sidewalk sales as part of a downtown festival event where it is determined that such event will not be detrimental or injurious to property or improvements in the neighborhood, and will not adversely affect the health and safety of persons residing or working in the neighborhood;
 - (3) The city manager from authorizing, by issuing a permit therefor, the sale of food, nonalcoholic beverages and flowers from a mobile vending unit in accordance with the provisions of article VI of this chapter, or the sale of food and non-alcoholic beverages from a food truck or ice cream truck in accordance with the provisions of article X of this chapter.

- (d) A violation of any provision of this section shall constitute a class 1 misdemeanor.

(Code 1973, § 32-19; Code 1988, § 32-28; Ord. No. 1988-80, § 3, 7-26-1988; Ord. No. 2016-08, § 1, 1-26-2016)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11; sale of flowers, plants, etc., on streets, § 36-3.

Sec. 32-24. Removal of snow from sidewalks by property owners or occupants.

- (a) It shall be the duty of every person using or occupying in any manner, or for any purpose whatsoever, any house, store, shop, stable, building or tenement of any kind, and of persons having charge of churches and public buildings of any description, and of owners of unoccupied houses or unimproved lots, situated on any paved street, lane or alley in the city, within three hours after the fall of any snow shall have ceased (except when the snow has ceased to fall between the hours of 3:00 p.m. and 7:00 a.m., in which case it shall be removed before 11:00 a.m. the following morning) to remove and clear away, or cause to be removed and cleared away, the same from the sidewalk fronting such property in such manner as not to obstruct the passage of the water in the gutters.
- (b) Any person violating any provision of this section shall be guilty of a class 4 misdemeanor, and in addition thereto, shall pay the expense of removing the snow from the sidewalks.

(Code 1973, § 32-21; Code 1988, § 32-30)

Cross reference(s)—Penalty for class 4 misdemeanor, § 1-11.

Sec. 32-25. Removal of snow and ice from street intersections and sidewalks by city.

- (a) It shall be the duty of the director of public works or his designee to cause snow and ice to be removed by persons employed for cleaning the streets, and by additional labor when an emergency requires it, from the footways across intersecting streets, and also to remove ice and other obstructions to the free passage of water at the intersections of streets of the city, and to cause snow to be removed from the sidewalks fronting the houses, stores, churches, lots or tenements of such persons as shall neglect or refuse to remove the same as provided in section 32-24, the expense thereof to be certified to the city treasurer for collection.
- (b) It shall also be the duty of the director of public works or his designee, at the cost of the city, to clear away snow from the sidewalks and crossings in front of public buildings of the city.

(Code 1973, § 32-22; Code 1988, § 32-31)

Sec. 32-26. Dumping bricks, stone or debris on paved streets.

It shall be unlawful for any person to dump bricks, stone, iron, construction materials, soils, or other debris on any paved street unless as otherwise provided in this Code.

(Code 1973, § 32-30; Code 1988, § 32-33)

Sec. 32-27. Defacing or injuring paved streets.

It shall be unlawful for any person, in any manner, to deface or injure a paved street.

(Code 1973, § 32-31; Code 1988, § 32-34)

Sec. 32-28. Deposit of oily substances on asphalt streets.

No person shall pour or spill or allow to drip upon the asphalt streets in the city any kerosene, benzine or other similar oil or oily substance or liquid.

(Code 1973, § 32-32; Code 1988, § 32-35)

Sec. 32-29. Live advertising prohibited in or near street right-of-way.

- (a) No person shall stand within 15 feet of any right-of-way of any street, and by means of his dress, or by making sounds, motions or gestures invite or draw the attention or solicit the patronage or support of the public to any goods, merchandise, property, real or personal, business, services, entertainment or amusement manufactured, produced, bought, sold, conducted, furnished or dealt in by any person or for any political party or for the candidacy of any individual for any nomination or office.
- (b) Any violation of the provisions of subsection (a) shall be punishable by a fine not to exceed \$250.00.
(Code 1973, § 32-33; Code 1988, § 32-36; Ord. No. 2010-62, § 2, 7-27-2010)

Sec. 32-30. Shared mobility devices for hire prohibited except in accordance with pilot program.

- (a) Except as permitted by the City of Portsmouth Shared Mobility Device Pilot Program or such other related program as may be authorized by city council from time to time, the offering for use, or actual use, of shared mobility devices for hire such as motorized skateboards, e-scooters, motorized scooters, motorized bicycles, electric power-assisted bicycles or the like on city streets, sidewalks or other public ways is prohibited.
- (b) The prohibition in subsection (a) applies only to shared mobility devices for hire and does not apply to the use of personally-owned mobility devices.
(Ord. No. 2019-98 , § 1, 11-12-2019)

Secs. 32-31—32-55. Reserved.

ARTICLE II. RIGHT-OF-WAY PERMIT

Sec. 32-56. Definition.

As used in this article, the word "permittee" means a person to whom a permit required by this article is issued.

(Code 1988, § 32-56)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 32-57. Violations of article.

Any person violating any provision of this article shall be guilty of a class 1 misdemeanor.

(Code 1973, § 32-59; Code 1988, § 32-57)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11.

Sec. 32-58. Permit required; exceptions.

- (a) It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine, obstruct or in any manner disturb the surface or subsurface of any street, lane, alley or public right-of-way in the city, or to perform

work within or on the public right-of-way or on structures located within or on the public right-of-way which reasonably requires the implementation of traffic control or similar measures for the safety of workers and the general public, without first having obtained from the city engineer a permit to do so, except as otherwise provided for herein; nor shall such work be performed after such permit shall have been revoked or shall have become ineffective. All work shall be performed in accordance with the City of Portsmouth Standards and the City of Portsmouth "Engineering Standards for Work in the Right-of-Way."

- (b) If any person is required to dig up, break, excavate, tunnel, undermine, obstruct or in any manner disturb the surface or subsurface of any street, lane, alley or public right-of-way, and if such actions are required by the city through its repair, alteration, or widening of any such street, lane, alley or public right-of-way or any sidewalk and if such actions are to be performed within the limits of the project, the contractor performing the work shall obtain a permit from the city engineer at no cost to the contractor.
- (c) If right-of-way work is required in order to make emergency repairs and the emergency existing requires that operations commence prior to the earliest possible issuance of a permit and within 72 hours from the discovery of such emergency, a permit shall not be required to commence such work; provided, however, that an application as required by section 32-59 shall be submitted within 72 hours after the commencement of the work; and provided, further, that notification of such emergency work shall be given by telephone, or other means, to the city engineer or his authorized representative immediately. Such application will be made upon the same form and in the same manner as that required by section 32-59, except that it will specify the emergency condition that existed. Any person commencing an emergency excavation without a permit as allowed herein thereby implies that he accepts all those conditions and agreements set forth in section 32-59 and elsewhere in this article and that he will conform to the requirements set forth in this article.

(Code 1973, § 32-45; Code 1988, § 32-58; Ord. No. 2002-43, § 1, 7-9-2002; Ord. No. 2017-51, § 1(Exh. A), 6-27-2017)

Sec. 32-59. Application for permit; applicant's bond.

- (a) Except as provided in subsection (b) of this section, any person required to obtain a permit by section 32-58 shall make application therefor to the city engineer on a form prescribed by him, which form shall state:
 - (1) The type, amount and dimensions of the work to be performed;
 - (2) The place where such work is to be performed;
 - (3) The purpose of such work;
 - (4) The time at which the work is to be commenced and the time at which the work is to be completed;
 - (5) That such person agrees to indemnify, save and hold the city free and harmless from liability accruing or growing out of the work performed and to defend the city against any claim occasioned by the work performed; and
 - (6) Such other information as is required by the city engineer.
- (b) Any corporation which is subject to the jurisdiction of the state corporation commission and which furnishes utility services within the city shall be required to obtain a permit by making application therefor to the city engineer on a form prescribed by him, which form shall state:
 - (1) The type, amount and dimensions of the work to be performed;
 - (2) The place where such work is to be performed;
 - (3) The purpose of such work;

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- (4) The time at which the work was commenced and the time in which the work is to be completed;
 - (5) That such corporation agrees to indemnify, save and hold the city free and harmless from liability accruing or growing out of the work performed and to defend the city against any claim occasioned by the work performed; and
 - (6) Such other information as is required by the city engineer.
- (c) The applicant shall sign the application and accompany the same with a bond in a form and of a type approved by the city attorney in the penal amount provided below payable to the city and conditioned upon the applicant's compliance with this article and the conditions and agreements of his application and conditioned to save harmless the city from any loss or damage by reason of any injury to any person or property occasioned by the negligence of the applicant, his servants, agents, employees, subcontractors or any independent contractors hired by him or occasioned by the failure of the same to comply with this article or the conditions and agreements of the application. The bond shall contain a further provision that, upon demand by the city, the applicant shall be required to defend, pay the cost of defense, furnish attorney for the defense of, any claim made against the city which may be based upon any injury to any person or property occasioned by the negligence of the applicant, his servants, agents, employees, subcontractors or any independent contractors hired by applicant or occasioned by the failure of the same to comply with this article or the conditions and agreements of the application. The amount of the bond shall be \$5,000.00 or the stated value of the work, whichever is greater; except that a corporation covered by the provisions of subsection (b) of this section shall annually on or before the first working day in January post a bond in the amount of \$100,000.00 which shall cover any work performed by the contractor during the year. The city engineer may reduce the bond if he determines that the potential impact on the right-of-way is minimal.

(Code 1973, § 32-46; Code 1988, § 32-59; Ord. No. 2002-43, § 1, 7-9-2002)

Sec. 32-60. Issuance of permit; revocation.

- (a) The city engineer upon receipt of application in proper form, of a proper bond, and of satisfactory written evidence of adequate and effective insurance coverage, or self-insurance, shall determine the charges to be paid by the applicant to the city in accordance with the charges set forth in section 32-61 and inform the applicant of same. If, in the opinion of the city engineer, the proposed work is a necessary and proper use of the city's streets or rights-of-way and all proper and reasonable requirements to assure future maintenance are satisfied, he shall issue a permit for same.
- (b) If the city engineer shall fail to approve any such application the aggrieved applicant may appeal to the city council, and the decision of the city council shall be final.
- (c) A permit as issued under this article may be revoked at any time during the period it covers by the city engineer for failure of the permittee to comply with the provisions of this article or the conditions and agreements of his application. For failure to rectify such default after revocation, the former permittee shall be held to be in violation of this article for each and every day such default shall continue. The city engineer may in his discretion cause such work to be performed as is necessary to rectify such default, and the costs or expenses thereof shall be chargeable to and paid by the former permittee. The revocation of a permit may be appealed by the aggrieved former permittee to the city council, and the decision of the city council shall be final.
- (d) Any person performing or directing the performance of land disturbance work in the right-of-way without a valid right-of-way permit shall pay the fee set forth in appendix A to this Code in addition to all fees necessary to obtain a valid permit.

(Code 1973, § 32-47; Code 1988, § 32-60; Ord. No. 2002-43, § 1, 7-9-2002; Ord. No. 2020-34 , § 1, 5-12-2020)

Sec. 32-61. Schedule of fees and charges.

- (a) *Nonresidential construction.* An inspection fee as set forth in appendix A to this Code shall be charged for land disturbance in the right-of-way, not exceeding 100 square feet. An additional fee as set forth in appendix A to this Code shall be charged for such land disturbance in excess of 100 square feet. The unit fee for utility poles shall be as set forth in appendix A to this Code per pole. Installation of underground utilities shall be charged as above. The area of land disturbance for purpose of calculating the inspection fee for the installation of underground utilities shall be the linear length of the line installed by three feet wide.
- (b) *Residential construction.* For each permit issued under this article, an inspection fee as set forth in appendix A to this Code per residential lot shall be charged. The inspection fee shall cover any disturbance in the right-of-way, with the exception of driveway aprons.
- (c) *Inspections and reinspections.* The city engineer or designee shall inspect all such work, which shall be subject to conditions prescribed as to materials and construction. If reinspection is required due to a condition caused by the permittee a reinspection fee as set forth in appendix A to this Code must be paid prior to the reinspection.
- (d) *Individual work locations included on one permit.* Up to ten individual work locations may be included on one permit if: (i) each cut is not larger than one square yard in area, (ii) all such cuts are within 300 linear feet along any one street, (iii) the inclusion of additional cuts will not increase the inspection services required for any one cut, and (iv) all such cuts will be able to be repaved or resurfaced at one time. For each such permit issued, charges for repaving or resurfacing will be levied based on the schedule contained in subsection (b) of this section prorated to the nearest one-tenth of a square yard for the total area involved.
- (e) *Underestimations.* Should it develop that the amount of land or pavement removed or disturbed was underestimated, the applicant shall pay any resulting difference in fees.
- (f) *Fees for street or lane closures.* A fee as set forth in appendix A to this Code shall be charged for temporary street or lane closures necessitated by work in the right-of-way.

(Code 1973, § 32-48; Code 1988, § 32-61; Ord. No. 2002-43, § 1, 7-9-2002; Ord. No. 2020-34, § 4, 5-12-2020)

Charter reference(s)—Authority of council to establish and collect fees and charges, § 2.14.

Sec. 32-62. Protective measures.

The permittee shall by adequate barricades, fencing, railways, passways, lights or any other necessary safety equipment protect the public from injury. Such protective measures shall be maintained until the city commences resurfacing such area or until the city accepts such area without further resurfacing.

(Code 1973, § 32-49; Code 1988, § 32-62)

Sec. 32-63. Protection of traffic.

The permittee shall not block or reroute traffic without the permission of the traffic engineer. The permittee shall develop a plan to route and control such traffic in accordance with the latest edition of the Virginia Work Area Protection Manual, and such plan shall be approved by the city engineer or designee. Warning signs, cones, flaggers or any other necessary traffic-control device shall be maintained and positioned at such site so as to protect motorists at all times during which traffic flow is or may be disturbed.

(Code 1973, § 32-50; Code 1988, § 32-63)

Sec. 32-64. Protection of utilities.

The permittee shall not interfere with any existing utility without the written consent of the city engineer and the utility company or person owning the utility. If it becomes necessary to remove an existing utility this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across such work. In case any such pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

(Code 1973, § 32-51; Code 1988, § 32-64)

Sec. 32-65. Protection of adjoining property.

The permittee shall at all times and at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. The permittee shall, at his or its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure to properly protect and carry out such work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property the appropriate city department or city official having control of such property.

(Code 1973, § 32-52; Code 1988, § 32-65)

Sec. 32-66. Protection of sidewalks.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over such excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that foot passengers can pass over safely at all times. Any excavation of a sidewalk which disturbs only a portion of the square or rectangular pattern will require the repaving of the entire square or rectangle.

(Code 1973, § 32-53; Code 1988, § 32-66)

Sec. 32-67. Protection of watercourses.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the city engineer may direct. The permittee shall not obstruct the gutter of any street but shall use all

proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations in accordance with chapters 11 and 31.1. The permittee shall be responsible for any damage resulting from its failure to so provide.

(Code 1973, § 32-54; Code 1988, § 32-67)

Sec. 32-68. Protection of monuments.

The permittee shall not remove or disturb any monuments found on the line of the excavation work without first obtaining the permission of the city engineer to do so. Permission to remove or disturb such monuments shall only be granted upon the condition that the permittee shall pay all expenses incident to the proper replacement of such monument by the city.

(Code 1973, § 32-55; Code 1988, § 32-68)

Sec. 32-69. Return to city or replacement of bricks, materials.

The permittee shall save and return to the city if it so desires all brick or other material taken up, or replace same if lost or broken.

(Code 1973, § 32-56; Code 1988, § 32-69)

Sec. 32-70. Cleanup.

As the excavation work progresses, the work area shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at such site shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city engineer.

(Code 1973, § 32-57; Code 1988, § 32-70)

Sec. 32-71. Restoration of right-of-way.

The permittee shall restore all disturbed land and pavement in the right-of-way in accordance with the City of Portsmouth Standards and the City of Portsmouth "Engineering Standards for Work in the Right-of-Way." Broken pavement, large stones, roots and other debris shall not be used in the restoration.

(Code 1973, § 32-58; Ord. No. 2002-43, § 1, 7-9-2002)

Secs. 32-72—32-90. Reserved.

ARTICLE III. BUILDING SETBACK LINES

Sec. 32-91. Construction within lines prohibited; purpose of article.

It shall be unlawful and a class 1 misdemeanor for any person to enlarge, extend or build any porch, bay window extension, shed or other building or structure on any of the land abutting on the streets set out in the following sections of this article within the building setback lines prescribed for any such street. Such building

setback line shall apply equally to both sides of such streets unless the contrary intention is stated. The purpose and intention of this article is to facilitate the acquisition of the land required to widen such streets to the uniform width indicated.

(Code 1973, § 32-70; Code 1988, § 32-91)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11.

Sec. 32-92. Limitation on issuance of building permits.

It shall be unlawful and a class 4 misdemeanor for the building official or any other official of the city to issue any building permit for any enlargement, extension or construction of any structure within the prescribed building setback lines of the streets set out in the following sections of this article.

(Code 1973, § 32-71; Code 1988, § 32-92)

Cross reference(s)—Penalty for class 4 misdemeanor, § 1-11.

Sec. 32-93. Street with setback line of 30 feet from centerline.

A building setback line of 30 feet from the centerline of the following street is hereby established:

Deep Creek Boulevard, from Jefferson Street to Paradise Creek.

(Code 1973, § 32-72; Code 1988, § 32-93)

Sec. 32-94. Streets with setback line of 40 feet from centerline.

A building setback line of 40 feet from the centerline of the following streets is hereby established:

Clifford Street from Airline Boulevard to Bains Creek.

County Street, at its various locations between Dinwiddie Street and Rodman Avenue.

George Washington Highway, from Elm Avenue to the southern city limits.

London Street, from Dinwiddie Street to Williamsburg Avenue.

Portsmouth Boulevard, from Green Street to Turnpike Road.

Rodman Avenue, from Atlantic Coast Line railroad to Portsmouth Boulevard.

Truxton Avenue, from Portsmouth Boulevard to Elliott Avenue.

Turnpike Road, from Constitution Avenue to Alexander's Corner.

(Code 1973, § 32-73; Code 1988, § 32-94)

Sec. 32-95. Streets with setback line of 50 feet from centerline.

A building setback line of 50 feet from the centerline of the following streets is hereby established:

Cherokee Road, from Navajo Trail to Hodges Ferry Road.

Deep Creek Boulevard, from Paradise Creek to the southern city limits.

Elliott Avenue, from Deep Creek Boulevard to Freedom Avenue.

Elm Avenue, from High Street to South Street and from Jefferson Street to George Washington Highway.

Elmhurst Lane, from Park Manor Road south to its terminus just south of Airline Boulevard.

Greenwood Drive, from Deep Creek Boulevard to Airline Boulevard.

Gust Lane, from Victory Boulevard to the southern city limits.

Hodges Ferry Road from Cherokee Road to Airline Boulevard.

Navajo Trail, from Portsmouth Boulevard to Cherokee Road.

Thelmar Lane, from Lamper Road to the western city limits.

(Code 1973, § 32-74; Code 1988, § 32-95)

Sec. 32-96. Street with setback line of 60 feet from centerline.

A building setback line of 60 feet from the centerline of the following street is hereby established:

Airline Boulevard, from High Street to the western city limits.

(Code 1973, § 32-75; Code 1988, § 32-96)

Sec. 32-97. Requirement as to certain portion of Victory Boulevard.

In order to provide for a future street width of 120 feet, a building setback line of 120 feet south of the north line of Victory Boulevard, between the entrance to St. Julian Ammunition Depot and Nicholson Street, is hereby established.

(Code 1973, § 32-76; Code 1988, § 32-97)

Sec. 32-98. Requirement as to certain portion of County Street.

In order to provide for future widening, a building setback line of 60 feet north and 40 feet south of the centerline of County Street as it exists on April 12, 1966, between Crawford Street and Dinwiddie Street, is hereby established.

(Code 1973, § 32-77; Code 1988, § 32-98)

Sec. 32-99. Requirement as to certain portion of London Street.

In order to provide for future widening, a building setback line of 40 feet north and 60 feet south of the centerline of London Street as it exists on April 12, 1966, between Crawford Street and Dinwiddie Street, is hereby established.

(Code 1973, § 32-78; Code 1988, § 32-99)

Sec. 32-100. Requirement as to certain portion of George Washington Highway.

In order to provide for future widening, a building setback line of 60 feet north and 40 feet south of the centerline of George Washington Highway as it exists on September 10, 1970, between Chestnut Street and Elm Avenue, is hereby established.

(Code 1973, § 32-79; Code 1988, § 32-100)

Sec. 32-101. Requirement as to certain portion of Towne Point Road.

In order to provide for future widening, a building setback line of 80 feet from the existing western right-of-way line of Towne Point Road and 25 feet from the existing eastern right-of-way line of Towne Point Road as it exists on March 9, 1972, between the City of Chesapeake corporate limits to its future Interchange with Route 164, the Western Freeway is hereby established.

(Code 1973, § 32-80; Code 1988, § 32-101)

Secs. 32-102—32-124. Reserved.

ARTICLE IV. STREET POLES

Sec. 32-125. Definitions.

The following words and terms shall, for the purposes of this article, have the following respective meanings, 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.

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.

City engineer means the city engineer or his designee.

City facilities means city-owned existing structures located within the public way. City facilities may include, by means of example, city-owned light poles and city-owned traffic signal poles and structures.

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. "Co-location" has a corresponding meaning.

Existing structure means any structure within a public way 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. "Existing structure" includes any structure that is within a public way 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.

New city facility or new wireless support structure means a city facility or wireless support structure of the type described herein 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.

Non-small cell facility means a wireless facility which is not a small cell facility.

Pole means a utility pole, wireless support structure or similar structure located in the public streets or public way.

Public street means the surface of and the space above and below any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including non-paved surfaces, now or hereafter held by the city for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer easements or similar public use.

Public way means and includes all public streets held or controlled by the city, but only to the extent of the city's right, title, interest or authority to grant a license to occupy and use such public streets for telecommunications facilities.

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. Small cell facilities include, but are not limited to, micro-wireless facilities.

Utility pole means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth of Virginia that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

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 facilities include, but are not limited to, small cell facilities and micro-wireless facilities.

Wireless facilities franchise agreement means an agreement approved by city council and executed by the city and a wireless services provider or wireless infrastructure provider granting a non-exclusive, revocable license to use the public ways of the city for the purposes of constructing, installing, using, maintaining, testing, inspecting, operating, repairing, and removing wireless facilities pursuant to and in accordance with the agreement and this article.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications services 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 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 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 service provider means a provider of wireless services.

Wireless support structure means a freestanding structure, such as a pole, monopole, tower, either guyed or self-supporting, or a suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

(Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-126. Violations of article.

- (a) Unless otherwise specifically provided, a violation of any provision of this article shall constitute a class 1 misdemeanor.
- (b) Any violation or refusal on the part of any person to make such alteration and repairs in their present or future construction as may be required to comply with the provisions of this article shall work immediate suspension of all permits, rights and franchises held by such person.

(Code 1973, § 28-1; Code 1988, § 32-126)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11.

Sec. 32-127. Permit and franchise or encroachment permit required.

No person shall erect a post or a pole in any of the city's streets or rights-of-way unless he first obtains (1) a franchise or encroachment permit and (2) a permit therefor from the city engineer as required by section 32-58.

(Code 1973, § 28-2; Code 1988, § 32-127; Ord. No. 2017-51 , § 2, 6-27-2017)

Sec. 32-128. Plan of location and other materials to accompany permit application.

Any application for a permit to erect poles on the public streets shall be accompanied by the following materials:

- (1) A plan indicating the proposed location of the same, subject to the approval of the city engineer;
- (2) The diameter of such pole at the butt;
- (3) The minimum depth to which such pole is to be set or pole base design, as applicable;
- (4) The height of such pole above the surface of the street;
- (5) The service for which such pole is to be used; and
- (6) Any other information prescribed by the city engineer to the extent permitted by law.

(Code 1973, § 28-3; Code 1988, § 32-128; Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-129. Maintenance and identification.

All companies owning, using or erecting poles in this city shall keep such poles in good condition. Such companies shall indicate upon each pole the name of the owner.

(Code 1973, § 28-4; Code 1988, § 32-129; Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017)

Sec. 32-130. Main line poles.

The poles of the main line on any street shall be confined to one side of the street, unless a special permit to the contrary is granted, and the lowest crossarm or wires shall not be less than 18 feet from the surface of the ground. Poles of sufficient size and height shall be used so as to safely and efficiently accommodate all wires placed on them, and any future micro-wireless facilities suspended on such wires.

(Code 1973, § 28-5; Code 1988, § 32-130; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-131. Joint use generally.

In granting permits to erect poles, the city reserves the right, if the interest of the city demands and to the extent permitted by law, to authorize other companies or persons to use the same poles for their purposes upon payment of proper compensation to the owner thereof. All permits shall be subject to these conditions, and, in accepting the permit, the applicant binds himself thereto.

(Code 1973, § 28-7; Code 1988, § 32-131; Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017)

Sec. 32-132. Use by city.

Except in the case of wireless support structures governed by section 32-369, to the extent permitted by law, the city reserves the right to place city-owned communication and signal wires and other related equipment and facilities on all poles erected in its alleyways or public places or streets, free of cost or expense to the city, provided that such city-owned equipment and facilities do not exceed the pole's load bearing capabilities as constructed and are otherwise compliant with applicable law.

(Code 1973, § 28-6; Code 1988, § 32-132; Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-133. Damaging.

It shall be unlawful for any person to damage any pole in the city. In addition to any penalty imposed for a violation of this section, the person guilty of the violation shall be liable for the cost incurred in replacing or repairing the damaged pole.

(Code 1973, § 28-8; Code 1988, § 32-133; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-134. Removal of abandoned or dangerous poles.

- (a) Every pole shall be removed from the street at the time of abandonment by the person or entity responsible for such pole. For purposes of this section, a pole shall be deemed to be abandoned upon termination of its use as an active utility pole or wireless support structure.
- (b) Whenever a pole shall, in the judgment of the city engineer, become a danger to persons or property, it shall be removed by the person or entity responsible for such pole.

(Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-135. Uniformity of height.

All poles installed by virtue of a permit granted under this article shall be of uniform height, unless the city engineer shall authorize to the contrary for good cause shown.

(Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017)

Sec. 32-136. Height limit.

No pole shall exceed 50 feet in height, measured from the surface of the street, unless the city engineer shall authorize to the contrary for good cause shown.

(Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017)

Sec. 32-137. Underground districts.

Except as authorized by section 32-154, no new pole shall be installed in an underground district designated under article V of this chapter, provided however that installation of new wireless support structures in underground districts shall only be prohibited if:

- (1) The undergrounding requirement or comprehensive plan objective resulting in creation of the undergrounding requirement existed at least three months prior to the submission of the application for erection of the wireless support structure;
- (2) Co-location of wireless facilities on existing utility poles, city-owned structures with the city's consent, existing wireless support structures, or a building within the underground district is permitted;
- (3) The replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller is permitted in the underground district; and
- (4) The disapproval of the application for erection of a wireless support structure in the underground district would 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.

(Ord. No. 2017-51 , § 2(Exh. A), 6-27-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-138. New and replacement poles and wireless support structures.

- (a) New poles, including utility poles, and new wireless support structures shall be as consistent as possible with the materials, finish and color of the adjacent poles in the surrounding area.
- (b) Where it is necessary to replace an existing pole or wireless support structure due to age, maintenance, condition or structural issues, the replacement pole shall not be considered a new pole or new wireless support structure so long as the new pole or new wireless support structure does not exceed 50 feet in height, measured from the surface of the street, and is not more than ten feet taller than the tallest existing utility pole located within 500 feet of the replacement pole within the same public way or within the existing line of poles.

(Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Secs. 32-139—32-150. Reserved.***ARTICLE V. UNDERGROUND WIRES***

Sec. 32-151. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a class 1 misdemeanor.

(Code 1988, § 32-151)

Cross reference(s)—Penalty for class 1 misdemeanor, § 1-11.

Sec. 32-152. Designation of underground districts.

- (a) *District I—Downtown Underground Utility District.* All that portion of the city within the following described area is hereby designated as District I—Downtown Underground Utility District for underground wires:

Beginning at a point at the intersection of the Port Warden Line of the southern branch of the Elizabeth River and the centerline of Queen Street extended; thence in a southerly direction along said Port Warden Line to the centerline of King Street extended; thence in a westerly direction along the centerline of King Street to the centerline of Effingham Street; thence in a northerly direction along the centerline of Effingham Street to the centerline of Queen Street; thence in an easterly direction along the centerline of Queen Street to the point of beginning.

- (b) *District II—Olde Towne Underground Utility District.* All that portion of the city within the following described area is hereby designated as District II—Olde Towne Underground Utility District for underground wires:

Beginning at a point at the intersection of the centerlines of Crawford Street and London Boulevard; thence west along the centerline of London Boulevard to the centerline of Washington Street; thence north along said centerline to the centerline of Crawford Parkway; thence easterly and thence southerly along said centerline to its terminus at the intersection of the centerlines of North Street and Crawford Street; thence continuing south along the centerline of Crawford Street to the centerline of London Boulevard, the point of beginning.

- (c) *District III—Olde Towne South Underground Utility District.* All that portion of the city within the following described area is hereby designated as District III—Olde Towne South Underground Utility District for underground wires:

Beginning at a point at the intersection of the centerlines of Fort Lane and Crawford Parkway; thence in an easterly direction along the centerline of Crawford Parkway to the centerline of Washington Street; thence south along said centerline to the centerline of London Boulevard; thence east along said centerline to the centerline of Crawford Street; thence north along said centerline to its terminus at the intersection of the centerlines of North Street and Crawford Parkway; thence continuing north and thence northwesterly along the centerline of Crawford Parkway a distance of 900 feet to a point; thence east along a line projected to the Port Warden Line of the southern branch of the Elizabeth River; thence south along said line to the centerline of Queen Street projected easterly; thence west along said centerline to the centerline of Effingham Street; thence south along said centerline to the centerline of King Street; thence east along said centerline projected easterly to the Port Warden Line of the southern branch of the Elizabeth River; thence southerly along said centerline 800 feet to a point which is the easterly projected centerline of Interstate 264; thence westerly along said centerline to the centerline of Effingham Street; thence north along said centerline to the centerline of County Street; thence west along said centerline to the centerline of Chestnut Street; thence north along said centerline to its terminus with the centerline of London Boulevard; thence continuing north along the centerline of Fort Lane to the centerline of Crawford Parkway; the point of beginning.

(Code 1973, § 28-19; Code 1988, § 32-152)

Sec. 32-153. Removal of aerial wires, cables, etc., in underground districts.

All aerial wires, cables and poles, other than distributing wires, wires for municipal decorative lighting and such city-owned communication and signal wires as in the opinion of the city manager are necessary to be maintained overhead, shall be moved from the streets of the city within the territory defined in section 32-152 at an approximately uniform, annual rate so as to be accomplished by the following dates: For District I, January 1, 1975; for District II, January 1, 1980; for District III, January 1, 1991. If the proper proportion of construction is not attained in any one year, the deficiency shall be made up during the following year. Each person maintaining and operating pole and wire lines in the city shall submit to the city manager for his approval a schedule for such work. The city manager shall so adjust and modify these schedules as to involve the minimum breaking up of street surfaces and inconvenience to the public.

(Code 1973, § 28-20; Code 1988, § 32-153)

Sec. 32-154. Erection or maintenance of aerial wires, cables, etc., in underground districts.

- (a) It shall be unlawful for any person to erect or maintain aerial wires, cables, wireless support structures or poles within the underground utility districts described in this article after the dates applied to the respective districts in section 32-153 except as otherwise stated in section 32-137 and subsection (b) below. Notwithstanding the foregoing sentence, replacing utility poles and wireless support structures with poles or wireless support structures of the same size or smaller shall be permissible under this article V.
- (b) No exception shall be granted unless the city manager finds that such requested exception would not be injurious to the neighborhood, that denial would create severe and undue hardship for the person, and that denial would result in no appreciable benefit to the neighborhood. The granting of an exception shall be at the sole discretion of the city manager.
- (c) The exception provision set forth in subsection (b) above may be applied to any type of pole or wireless support structure, including without limitation new poles and wireless support structures and the replacement of existing poles and wireless support structures with poles and wireless support structures of greater size and height.

(Code 1973, § 28-21; Code 1988, § 32-154; Ord. No. 1991-111, § 1, 12-10-1991; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-155. Underground electric, telephone and CATV service for new structures.

- (a) All newly constructed buildings and other structures, whether situated within or without the underground wiring districts set forth in section 32-152, shall be provided with underground electric, telephone and CATV service, except in areas zoned industrial; provided that:
 - (1) Equipment such as electric distribution transformers, switch gear, meter pedestals and telephone pedestals which are normally installed aboveground in accordance with accepted utility practices for underground distribution systems may be so installed; and
 - (2) Meters, service connections and similar equipment normally attached to the outside wall of the premises served may continue to be so installed.
- (b) The work of constructing subways and manholes for conduits and of erecting poles for local distribution and the location of all such subways, manholes, conduits and poles shall be under the supervision and subject to the approval of the city engineer or such other person as the city manager may from time to time designate. Manholes shall at all times conform to the grades of the street.

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- (c) All improvements required by this section shall be constructed in accordance with accepted standards for underground construction.
 - (d) Whenever relocation of utility facilities is compelled by any construction undertaken by any unit of government, the provisions of this section may be waived by the city council.

(Code 1973, § 28-22; Code 1988, § 32-155)

Secs. 32-156—32-170. Reserved.

ARTICLE VI. SIDEWALK VENDORS IN DOWNTOWN DISTRICT¹⁵

DIVISION 1. GENERALLY

Sec. 32-171. Purpose of article.

The purpose of this article is to provide for regulation of sidewalk vending activities in the downtown district in order to more fully promote the public interest by contributing to an active and attractive pedestrian environment. In recognition thereof, reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety and welfare and the interest of the city in the primary use of public streets and sidewalks for use by vehicular and pedestrian traffic.

(Code 1988, § 32-171; Ord. No. 1988-80, § 1(32-120), 7-26-1988)

Sec. 32-172. Definitions.

The following words and terms shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

Downtown district means that portion of the city designated in the zoning ordinance as the "Downtown District."

Mobile vending unit means a movable cart or vehicle that is operated from a fixed location and which may be moved without the assistance of a motor and which is not required to be licensed and registered by the division of motor vehicles used for the displaying, storing or transporting of articles offered for sale by a vendor.

Vending means the sale of food, nonalcoholic beverages and/or flowers from a mobile vending unit on any public street or sidewalk.

Vendor means any person, including an employee or agent of another, engaged in vending on any public street or sidewalk.

(Ord. No. 1988-80, § 1(32-122), 7-26-1988)

Cross reference(s)—Definitions and rules of construction generally, § 1-2; zoning ordinance, ch. 40.

¹⁵Cross reference(s)—Street vendors of ice cream, § 15-101 et seq.; sale of flowers, plants, etc., on streets, § 36-3.

Sec. 32-173. Violations of article.

- (a) Any person violating any provision of this article shall be guilty of a class 3 misdemeanor.
- (b) The placement of any vending unit or other type of device on any sidewalk in violation of the provisions of this article is declared to be a public nuisance detrimental to the health, safety and welfare of the residents of the city.

(Code 1988, § 32-173; Ord. No. 1988-80, § 1(32-133), 7-26-1988)

Cross reference(s)—Penalty for class 3 misdemeanor, § 1-11.

Sec. 32-174. Legal status of article.

The adoption of this article is intended by the city council to be temporary in nature and is subject to amendment, revision or repeal upon action by the city council.

(Code 1988, § 32-174; Ord. No. 1988-80, § 2, 7-26-1988)

Sec. 32-175. Hours of operation.

No vendor shall operate except between the hours of 7:00 a.m. and 10:00 p.m. All mobile vending units must be removed from public property during nonoperating hours. Hours of operation may be extended by the city manager for approved special events.

(Code 1988, § 32-175; Ord. No. 1988-80, § 1(32-124(a)), 7-26-1988)

Sec. 32-176. Signs restricted.

All signs are prohibited on or with any mobile vending unit except for price signs and sign or logo not more than two square feet in area identifying the name of the vendor or the product being sold.

(Code 1988, § 32-176; Ord. No. 1988-80, § 1(32-124(b)), 7-26-1988)

Sec. 32-177. Location of machines restricted.

No coin-operated vending machine shall be permitted in any portion of any public street, sidewalk or right-of-way, except for boxes for the sale of newspapers.

(Code 1988, § 32-177; Ord. No. 1988-80, § 1(32-124(c)), 7-26-1988)

Sec. 32-178. Parking, standing of units.

No mobile vending unit shall be located in the portion of any street intended for use of motor vehicles.

(Code 1988, § 32-178; Ord. No. 1988-80, § 1(32-124(d)), 7-26-1988)

Sec. 32-179. Control of trash, debris; containers.

(a) All trash or debris accumulating within 20 feet of any mobile vending unit shall be promptly collected by the vendor and be disposed of in a proper trash container.

(b) Vendors of food and beverages must provide receptacles for trash as part of their mobile vending unit.

(Code 1988, § 32-179; Ord. No. 1988-80, § 1(32-124(e), (g)), 7-26-1988)

Sec. 32-180. Sales to persons in vehicles prohibited.

No vendor shall solicit or sell to any person in a motor vehicle on the street adjacent to his mobile vending unit.

(Code 1988, § 32-180; Ord. No. 1988-80, § 1(32-124(f)), 7-26-1988)

Sec. 32-181. Attendant required.

All mobile vending units shall have an attendant present at all times.

(Code 1988, § 32-181; Ord. No. 1988-80, § 1(32-124(h)), 7-26-1988)

Sec. 32-182. No property right in vendor locations.

Nothing contained in this article shall create a property right for any vendor in the vending location used by such person pursuant hereto. Any vendor shall comply immediately with the request of any police officer, firefighter, or city or public utility employee to move his unit for emergency reasons or to permit maintenance of the pavement, utilities or other public facilities.

(Code 1988, § 32-182; Ord. No. 1988-80, § 1(32-125), 7-26-1988)

Secs. 32-183—32-200. Reserved.

DIVISION 2. PERMIT

Sec. 32-201. Required.

It shall be unlawful for any person to engage in or carry on vending upon the public streets or sidewalks in the downtown district without first having obtained a permit to do so.

(Code 1988, § 32-201; Ord. No. 1988-80, § 1(32-121), 7-26-1988)

Sec. 32-202. Application requirements.

(a) Applications for a permit shall be filed at the office of the city manager on or after November 15 of the preceding year on forms deemed appropriate by the city manager. Every application for such permit shall be accompanied by an application fee as set forth in appendix A to this Code which shall not be refundable. All applications for such permit shall be investigated by such departments or officers of the city as the city

manager may direct. A decision to issue a permit shall be based on this information, other applicable ordinances and any other requirements as may be set forth herein.

- (b) The applicant shall satisfy the following requirements before a vending permit can be issued:
- (1) Submit the name and home and business address of the applicant, the name and address of the owner, if other than the applicant, of the vending business or mobile vending unit to be used in the operation of the vending business.
 - (2) Submit an accurate drawing showing the public area to be used along with plans detailing the design and size of the vending unit to be used and its placement or location thereon.
 - (3) Submit a description and a photograph, drawing, or artist's or architect's rendering of any mobile vending unit to be used in the operation of the vending business.
 - (4) Submit a description of the type of food, beverage or flowers to be sold.
 - (5) Submit written approval to use the vending site from the abutting property owners or tenants or their legal representative.
 - (6) Submit a certificate evidencing comprehensive general liability insurance, including products/completed operations liability insurance, naming the city as an additional insured. The coverage shall provide for a minimum liability of \$500,000.00 for personal injury and property damage. The city attorney shall review for approval the certificate of insurance establishing same.
- (c) All applications for a permit shall be referred to the downtown design committee for issuance or denial of a certificate of compliance regarding an applicant's mobile vending unit and related signs, if any.

(Code 1988, § 32-202; Ord. No. 1988-80, § 1(32-123), 7-26-1988; Ord. No. 1988-110, § 1(32-123), 12-13-1988)

Sec. 32-203. Location review.

Upon receipt of an application for permit required by the provisions of this division, the city shall review the location to determine if it is suitable for vending. In making this determination, the city shall consider the following criteria:

- (1) A mobile vending unit is limited to one assigned location.
- (2) No permit shall be issued for a location within 25 feet of a location for which a permit has already been granted.
- (3) The use of the mobile vending unit at such location must be compatible with the public interest to use the public streets, sidewalks or rights-of-way. In making such determination, the city manager or his designee shall consider the type and intensity of use, the width of the sidewalk, the proximity and location of existing street fixtures, including but not limited to signposts, lampposts, parking meters, bus shelters, benches, phone booths, trees and newsstands, as well as the presence of bus stops, truck loading zones and taxi stands. The city manager shall also consider other factors deemed relevant in determining whether or not the proposed use would result in congestion of the public way.
- (4) A minimum eight-foot sidewalk width must be maintained for pedestrian travel at all times.
- (5) A mobile vending unit may not be placed within 200 feet of a like business unless the applicant owns the establishment or has written consent of the proprietor. Subsequent to the issuance of a permit should a like business located within 200 feet of the approved location the prohibition contained in this section shall not apply for the remainder of the permit year.

(Code 1988, § 32-203; Ord. No. 1988-80, § 1(32-129), 7-26-1988)

Sec. 32-204. Fees.

The fee for a permit required by the provisions of this division shall be as set forth in appendix A to this Code and shall be collected prior to issuance of the permit.

(Code 1988, § 32-204; Ord. No. 1988-80, § 1(32-127), 7-26-1988)

Charter reference(s)—Authority of council to establish and collect fees and charges, § 2.14.

Sec. 32-205. Issuance.

After the filing of a completed application for a permit and upon compliance by the applicant with all requirements, the city manager shall, and is authorized to, issue a permit. Such permits shall be valid for one calendar year and all permits, regardless of when issued, shall expire on December 31 of each year. In the event two or more applications for the same location are received, the earliest application, if approved, shall be allowed to use the location.

(Code 1988, § 32-205; Ord. No. 1988-80, § 1(32-128), 7-26-1988; Ord. No. 1988-110, § 1(32-128), 12-13-1988)

Sec. 32-206. Grounds for denial.

Applications for permits required by this division may be denied on the basis of nonconformity with any of the standards established directly or by reference in this article or with any other relevant law or regulation.

(Code 1988, § 32-206; Ord. No. 1988-80, § 1(32-130), 7-26-1988)

Sec. 32-207. Notice of denial.

Upon denial of the application for a permit required by the provisions of this division, the applicant shall be so notified in writing and the notice shall state the reasons therefor.

(Code 1988, § 32-207; Ord. No. 1988-80, § 1(32-128), (32-130), 7-26-1988; Ord. No. 1988-110, § 1(32-128), 12-13-1988)

Sec. 32-208. Compliance with other regulations.

The issuance of a permit under the provisions of this division shall not relieve the permittee of the obligation to comply with the requirements or regulations of the department of public health or other applicable state or local agencies or departments and to obtain and maintain in full force and effect all applicable licenses and permits.

(Code 1988, § 32-208; Ord. No. 1988-80, § 1(32-124(i)), 7-26-1988)

Sec. 32-209. Additional licenses and approvals.

The permit required by the provisions of this division shall be in addition to and not in lieu of any business license which may be required pursuant to this Code and any approval which may be required by the health department or any other agency or regulatory authority over the proposed vending operation. A permit will not be issued under this division until any and all business licenses and other approvals required under this Code and any other applicable laws and regulations have been issued.

(Code 1988, § 32-209; Ord. No. 1988-80, § 1(32-126), 7-26-1988)

Cross reference(s)—Licenses, ch. 20.

Sec. 32-210. Nontransferable.

Each permit issued under the provisions of this division shall be issued in the name of the applicant and shall not be transferable to any other person.

(Code 1988, § 32-210; Ord. No. 1988-80, § 1(32-128), 7-26-1988; Ord. No. 1988-110, § 1(32-128), 12-13-1988)

Sec. 32-211. Suspension and revocation.

- (a) Any permit issued under this division may be revoked or suspended by the city manager. Written notice of such suspension or revocation shall be delivered to such vendor's place of business or mailed to such vendor's last known address.
- (b) Grounds for suspension or revocation may include, but not be limited to, the following:
 - (1) Misrepresentation of information contained in the application for the permit;
 - (2) Misrepresentation made in the course of the vending operation;
 - (3) Conduct of the vending operation in a manner so as to create a public nuisance or constitute a danger to the public health, safety or welfare; or
 - (4) Conduct which is contrary to the provisions of this article, any other law or regulation applicable to the vending operation, or conditions of the permit.

(Code 1988, § 32-211; Ord. No. 1988-80, § 1(32-131), 7-26-1988)

Sec. 32-212. Appeals.

Persons who are denied permits required by the provisions of this division, or whose permits are suspended or revoked by the city manager, may appeal in writing within ten days of receipt of notice thereof to the city council, setting forth fully their grounds of appeal. The city council's review of the appeal shall occur no later than the second regular scheduled council meeting following submission of the written appeal.

(Code 1988, § 32-212; Ord. No. 1988-80, § 1(32-132), 7-26-1988)

Secs. 32-213—32-230. Reserved.

ARTICLE VII. SIGNS NEAR INTERSTATE HIGHWAYS¹⁶

¹⁶State law reference(s)—Regulation of outdoor advertising in sight of public highways, Code of Virginia, §§ 33.1-351—33.1-381; special provisions pertaining to interstate highways, Code of Virginia, § 33.1-370.

Sec. 32-231. Violations of article.

A violation of any provision of this article shall constitute a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$50.00.

(Code 1988, § 32-231)

State law reference(s)—Similar penalty for violation of state law pertaining to signs near interstate highways, Code of Virginia, § 33.1-377.

Sec. 32-232. Definitions.

The following terms, wherever used or referred to in this article, shall have the following meanings unless a different meaning clearly appears from the context:

Advertisement means any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, property, real or personal, business, services, entertainment or amusement manufactured, produced, bought, sold, conducted, furnished or dealt in by any person or for any political party or for candidacy of any individual for any nomination or office; the term shall also include any part of an advertisement recognizable as such.

Advertising structure means any rigid or semirigid material with or without any advertisement displayed thereon situated upon or attached to real property outdoors primarily or principally for the purpose of furnishing a background or base or support upon which an advertisement may be posted or displayed.

Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of an interstate divided highway or the centerline of the main-traveled way of a nondivided interstate highway.

Distance along centerline means the distance measured between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway and which pass through the termini of a measured distance.

Distance from edge of a right-of-way means the horizontal distance measured along a line normal or perpendicular to the centerline of the highway.

Entrance roadway means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an interstate highway from the general road system within this city irrespective of whether traffic may also leave the main-traveled way of such road or turning roadway.

Exit roadway means any public road or turning roadway, including deceleration lanes, by which traffic may leave the main-traveled way of an interstate highway to reach the general road system within this city irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

Highway means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this city.

Historic place or shrine means only places that are maintained wholly at public expense or by a nonprofit organization.

Interchange means a grade separated intersection with one or more turning roadways for travel between intersection legs or an intersection at grade where two or more highways join or cross.

Legible means capable of being read without visual aid by a person of normal visual acuity.

Maintain means to allow to exist.

Main-traveled way means the traveled way of an interstate highway on which through traffic is carried. In the case of a divided interstate highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. The term "main-traveled way" does not include such facilities as frontage roads, turning roadways or parking areas.

National system of interstate and defense highways and *interstate system* means the system presently described in subsection (e) of section 103 of Title 23, United States Code.

Post means to post, display, print, paint, burn, nail, paste or otherwise attach.

Protected area means all areas which are adjacent to and within 660 feet of the edge of the right-of-way of any highway which is a part of the national system of interstate and defense highways.

Real property means any property physically attached or annexed to real property in any manner whatsoever.

Scenic area means any public park, area of particular scenic beauty or of historical significance designated as a scenic area by the city manager.

Sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system.

Trade name means a brand name, trademark, distinctive symbol or other similar device or thing used to identify particular products or services.

Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

Turning roadway means a connecting roadway for traffic turning between two intersection legs of an interchange.

Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(Code 1973, § 32-90; Code 1988, § 32-232)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 32-233. Signs permitted in protected areas.

The following signs may be erected or maintained in protected areas:

- (1) *Class 1, official signs.* Directional signs, historical markers, signs indicating the availability of food, lodging and vehicle service or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in state or federal law for the purpose of carrying out an official duty or responsibility. The city manager shall determine the type, size, location and number of signs of this class which may be erected.
- (2) *Class 2, on-premises signs.* Signs not prohibited by other parts of this article which are consistent with the applicable provisions of this article and which advertise the sale or lease of or activities being conducted upon the real property where the signs are located; provided, that:
 - a. Not more than one sign advertising the sale or lease of the same property may be erected or maintained in such manner as to be visible to traffic proceeding in any one direction on any one interstate highway.

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- b. Not more than one sign, visible to traffic proceeding in any one direction on any one interstate highway and advertising activities being conducted upon the real property where the sign is located, may be erected or maintained more than 50 feet from the advertised activity, and no such sign may be located more than 250 feet from the center of the advertised activity.
 - c. No sign, except one which is not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold shall be erected or maintained unless the name of the advertised activity is displayed as conspicuously as such trade name.
- (3) *Class 3, signs in the specific interest of the traveling public.* Signs otherwise conforming to law which are designed to give information in the specific interest of the traveling public, including only signs giving information about public places operated by the federal or the state government or any political subdivision thereof, natural phenomena, historical sites, areas of natural scenic beauty or naturally suited for outdoor recreation, designated as such by the city manager.

(Code 1973, § 32-91; Code 1988, § 32-233)

Sec. 32-234. Signs prohibited in protected areas.

- (a) No sign or advertising structure which is visible from the main-traveled way of the interstate system shall be erected, maintained or displayed within a protected area which:
 - (1) Advertises activities which are illegal.
 - (2) Is not securely affixed to a substantial advertising structure.
 - (3) Is obsolete.
 - (4) Is not clean and in good repair.
 - (5) Is not consistent with this article or other ordinances of this city.
- (b) No sign may be permitted within a protected area which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.
- (c) No sign may be permitted within a protected area which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.
- (d) No lighting may be permitted to be used in any way in connection with any sign in a protected area unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the interstate system or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle or otherwise to interfere with any driver's operation of a motor vehicle.
- (e) No sign may be permitted within a protected area which moves or has any animated or moving parts or which contains, includes or is illuminated by any flashing, intermittent or moving lights.
- (f) No advertisement may be erected or maintained on any tree nor be painted or drawn on any rock or other natural feature within a protected area.
- (g) No sign may be permitted to exceed 20 feet in length, width or height or 150 square feet in area, including border and trim but excluding supports, except class 2 signs, as designated in section 32-233, not more than 50 feet from any advertised activities being conducted upon the real property where the sign is located.

(Code 1973, § 32-92; Code 1988, § 32-234)

Sec. 32-235. Restrictions on class 3 signs in protected areas.

- (a) In protected areas in advance of an intersection of the main-traveled way of an interstate highway and an exit roadway, class 3 signs, as designated in section 32-233, which are visible to traffic on the highway approaching such intersection may not exceed the following number:

Distance from Intersection	Number of Signs
0—2 miles	0
2—5 miles	6
More than 5 miles	Average of 1 per mile

The specified distance shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the highway.

- (b) Subject to the other provisions of this section, not more than two such signs may be erected or maintained within any mile distance measured from any point, and no such signs may be erected or maintained less than 1,000 feet apart.
- (c) Such signs may not be erected or maintained in protected areas upon any part of the width of which is constructed an entrance or exit roadway.
- (d) Such signs visible to interstate highway traffic which is approaching or has passed an entrance roadway may not be erected or maintained in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the interstate highway.
- (e) No such signs may be erected or maintained in scenic areas.
- (f) No more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one interstate highway.

(Code 1973, § 32-93; Code 1988, § 32-235)

Secs. 32-236—32-250. Reserved.

ARTICLE VIII. SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS¹⁷

Sec. 32-251. Authority to impose.

- (a) The city council may impose taxes or assessments upon the abutting property owner or abutting property owners for making, improving, replacing or enlarging walkways upon existing streets, for improving and paving existing alleys, and for either the construction or the use of sanitary or stormwater sewers, including retaining walls, curbs and gutters; however, such taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owner, and no assessment for retaining walls shall be imposed upon any property owner who does not agree to such assessment.

¹⁷Cross reference(s)—Ordinances relating to specific public improvements or special assessments not affected by Code or ordinance adopting Code, § 1-6(4).

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- (b) In addition to the provisions of subsection (a) of this section, the city council may impose taxes or assessments upon abutting property owners for the construction, replacement or enlargement of sidewalks, water lines, sanitary sewers or stormwater sewers; for the installation of streetlights; for the construction or installation of canopies or other weather-protective devices; for the installation of lighting in connection with the foregoing; and for permanent amenities, including, but not limited to, benches or waste receptacles; provided that such taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owner.

(Code 1973, § 32-104; Code 1988, § 32-251)

State law reference(s)—Authority to impose taxes or assessments for local improvements, Code of Virginia, § 15.2-2404.

Sec. 32-252. General procedure.

Improvements referred to in section 32-251 may be ordered by the council and the cost thereof apportioned in pursuance of an agreement between the city and the abutting landowners, and in the absence of such an agreement, improvements, the cost of which is to be defrayed in whole or in part by local tax or assessment, may be ordered on a petition from not less than three-fourths of the landowners to be affected thereby, or by a vote of five of the members elected to the council, but notice shall first be given as provided in section 32-254 to the abutting landowners, notifying them when and where they may appear before the council to be heard in favor of or against such improvements.

(Code 1973, § 32-105; Code 1988, § 32-252)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2405.

Sec. 32-253. How cost assessed or apportioned.

The cost of improvements ordered under this article, when the same have been ascertained, shall be assessed or apportioned by the city assessor, between the city and the abutting property owners when less than the whole is assessed; provided, that except when it is otherwise agreed, that portion assessed against the abutting property owners shall not exceed one-half of the total cost of such improvement.

(Code 1973, § 32-106; Code 1988, § 32-253)

State law reference(s)—Cost assessment and apportionment, Code of Virginia, § 15.2-2406.

Sec. 32-254. Notice to abutting owners of amount of assessment; landowner's right to object.

- (a) When the assessment or apportionment provided for in this article is not fixed by agreement, notice thereof and of the amount so assessed or apportioned, shall be given each of the abutting owners and they shall be cited thereby to appear before the city assessor not less than ten days thereafter, at a time and place to be designated therein, to show cause, if any they can, against such assessment or apportionment.
- (b) The notice required by this section may be given by personal service on all persons entitled to such notice, except that notice to an infant or insane person may be served on his guardian or committee and notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having the property in charge, or on the tenant of the freehold, or in any case when the owner is a nonresident, or when the owner's residence is not known, such notice may be given by publication in some newspaper published or having general circulation in the city once a week for four successive weeks. Or, in any case, in lieu of such personal service on the parties or their agents and of such publication, the notice to all parties may be given

by publishing the same in some newspaper published or having general circulation in the city, once a week for two successive weeks. The second publication shall be made at least seven days before the parties are cited to appear. Any landowner wishing to make objections to an assessment or apportionment may appear in person or by counsel and state his objections.

(Code 1973, §§ 32-108, 32-109; Code 1988, § 32-254)

State law reference(s)—Similar provisions, Code of Virginia, §§ 15.2-2408, 15.2-2409.

Sec. 32-255. Appeal by landowner.

- (a) If a landowner's objections to an assessment or apportionment under this article are overruled he shall, within 30 days thereafter, but not afterwards, have an appeal as of right to the circuit court of the city. When an appeal is taken, the city assessor shall immediately deliver to the clerk of the court the original notice relating to the assessment, with his judgment endorsed thereon, and the clerk of the court shall docket the same.
- (b) The appeal shall be tried by the court or the judge thereof, in a summary way, without pleadings in writing and without a jury, in term time or in vacation, after ten days' notice to the adverse party, and the hearing shall be de novo.

(Code 1973, §§ 32-110, 32-111; Code 1988, § 32-255)

State law reference(s)—Similar provisions, Code of Virginia, §§ 15.2-2410, 15.2-2411.

Sec. 32-256. Report and billing of assessments.

The amount assessed against each landowner, or for which he is liable by agreement, pursuant to this article shall be reported as soon as practicable to the city treasurer. Persons against whom the assessments have been finally made shall be billed by the city treasurer, with the bills mailed not later than 14 days prior to the due date. The bills are to be separate and distinct from tax bills and the city treasurer shall maintain a record of all bills assessed and the payment thereof.

(Code 1973, § 32-107; Code 1988, § 32-256)

Sec. 32-257. Installment payment of assessments.

- (a) Persons against whom assessments have been finally made pursuant to this article may pay such assessments in equal installments over a period not exceeding five years, together with interest on the unpaid balance at a rate equal to the judgment rate of interest on the unpaid balances. Such installment shall become due at the same time that real estate taxes become due and payable in the city, and the amount of each installment including principal and interest, shall be shown on a bill mailed not later than 14 days prior to the installment due date to each such person, by the treasurer. When each bill assessed has been paid in full, the city treasurer shall transmit such information in writing to the city attorney, who shall have the lien marked satisfied.
- (b) The council, in its discretion, may cause the payment of the amount finally assessed or apportioned against each landowner, or fixed by agreement with him, for improving walkways upon streets or for improving and paving alleys, to be made in such manner and divided into such installments as shall be determined by the council, bearing interest at the rate of six percent per annum.

(Code 1973, §§ 32-111, 32-113; Code 1988, § 32-257)

State law reference(s)—Payment of assessments in installment payment of assessments, Code of Virginia, § 15.2-2413.

Sec. 32-258. Lien against abutting land.

The amount finally assessed against or apportioned to a landowner, or fixed by agreement with him, pursuant to the provisions of this article shall be a lien enforceable in equity on his abutting land, from the time the work of improvement is completed; subject, however, to his right of appeal and objections as provided for in this article. Such lien shall be enforceable against any person deemed to have had notice of the proposed assessment under section 32-259, but if no abstract of the resolution or ordinance authorizing the improvement as docketed as provided in section 32-259, such lien shall be void as to all purchasers for valuable consideration without notice and lien creditors until and except from the time it is duly admitted to record in the clerk's office of the circuit court of the city.

(Code 1973, § 32-111; Code 1988, § 32-258)

State law reference(s)—Enforcement of judgment, lien, Code of Virginia, § 15.2-2411.

Sec. 32-259. Docketing of abstracts of resolutions or ordinances.

- (a) When any improvement is authorized for which assessments may be made against the abutting landowners, the city council may, before the amount to be finally assessed against or apportioned to each landowner or fixed by agreement is determined, cause to be recorded in the judgment docket of the clerk's office in which deeds conveying real estate are required by law to be recorded, in abstract of the resolution or ordinance authorizing such improvement, showing the ownership and location of the property to be affected by the proposed improvement and the estimated amount that will be assessed against or apportioned to each landowner or fixed by agreement with him, and the same shall be indexed in the name of the owner of the property.
- (b) After the completion of the improvement, the estimated amount shall be amended to show the amount finally assessed against or apportioned to each landowner or fixed by agreement with him, which final amount shall in no event exceed the estimated amount. The amount finally assessed against or apportioned to each landowner may be greater than the initially assessed amount when the increased amount is for additional work being performed when the work was requested by the landowner and the additional work and its estimated amount is written into a separate agreement between the city and the affected landowner. From the time of the docketing of such abstract, any purchaser of, or creditor acquiring a lien on, any of the property described therein shall be deemed to have had notice of the proposed assessment.

(Code 1973, § 32-112; Code 1988, § 32-259)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2412.

Secs. 32-260—32-269. Reserved.

ARTICLE IX. PARKING LOTS

Sec. 32-270. Parking lot site development plan required.

Site development plans for parking lots shall be prepared in accordance with and, where applicable, shall be included with the site development plan required by section 40-172.1 of this Code. Such plans shall be stamped by

a professional engineer or land surveyor licensed by the commonwealth. Site development plans for parking lots shall contain elevations based upon city data as furnished by the city engineer. Unless the city engineer shall determine that some deviation is necessary to prevent a demonstrable hardship upon the property owner or is in the best interest of the public safety, the site plan shall also demonstrate compliance with the construction requirements of this article.

(Code 1988, § 32-270; Ord. No. 1991-24, § 1, 3-26-1991)

Sec. 32-271. Parking lot construction requirements generally.

All parking lots shall be constructed in accordance with the following requirements for on-site and off-site improvements:

- (1) *On-site improvements.* On-site improvements shall consist of either:
 - a. Parkway curbs or curbs and gutters around the entire interior perimeter of the parking lot; or
 - b. Wheel stops located at the end of each designated parking space in the parking lot, as determined by the city engineer in his sole discretion.
- (2) *Off-site improvements.* Off-site improvements to the right-of-way adjacent to the property being improved shall consist of seven-inch thick concrete aprons from the property line to the curb or edge of street pavement, not to exceed 15 feet in length measured from the edge of the curb or street pavement. The developer of the parking lot shall install curbs and gutters, with necessary street widening and sidewalks along the entire street frontage of the property being improved to the adjoining property lines. The developer shall also install drainage pipes in all ditches along the street frontage of the property. The off-site drainage requirements of section 33-33 of this Code shall apply to these improvements.

The city engineer may modify or waive the required installation for street curbs, gutters, and/or sidewalks if he determines that the public safety will not be adversely affected by such waiver. A modification or waiver may only be issued if the subject property is located in an industrial M-1, industrial M-1-R, or industrial M-2 zoning district; if the street to be improved is not located within or immediately adjacent to a residentially-zoned area; or if the street serves primarily as an alley or service road and does not front on a commercial or residential area. Regardless of any modification or waiver of the curbing and guttering or sidewalk requirements, the city engineer may still require the widening of the roadway in accordance with city specifications.

- (3) *Existing parking lots.* For the expansion of existing parking lots, the city engineer may grant an exception from the construction requirements of subsections (1) and (2) of this section if he deems that such an exception is necessary to prevent a demonstrable hardship upon the property owner based on the relative size of the expansion, and that the public health or safety will not be adversely affected by the exception.
- (4) *Construction methods and materials.* Bituminous concrete or Portland cement concrete shall be utilized for all street improvements and widening and shall be designed and installed subject to the approval of the city engineer according to the street classification and use. All parking facilities shall be paved with bituminous concrete or Portland cement concrete. Parking lot wheel stops shall be constructed of concrete or of an equal material as approved by the city engineer.

The city engineer may require paving surfaces and/or construction techniques which minimize surface stormwater runoff in areas where it is deemed necessary. The developer may select precast interlocking blocks, porous-type asphalt paving, detention basins or other methods approved by the city engineer.

In M-1 and M-2 industrial zones, the city engineer may modify or waive the required installation of paving on storage areas away from street frontage so long as same do not result in dust, dirt, sand, gravel and similar materials being deposited or tracked on public streets or rights-of-way. Storage areas are defined as an area used for storage of materials and equipment not on a trailer, and non-temporary (greater than 30 days) storage of motor vehicles and trailers. Access aisles of storage areas shall be paved to the standards of a parking lot, and shall be no less than 24 feet wide.

- (5) *Phased improvements.* The improvements to streets and parking facilities in this article may be phased in accordance with the schedule of improvements approved by the city engineer after considering the proposed use of the parking facility including the anticipated number of persons utilizing the area during the period of construction of the facility.

(Code 1988, § 32-271; Ord. No. 1991-24, § 1, 3-26-1991; Ord. No. 1995-118, § 1, 12-12-1995)

Sec. 32-272. Parking lot nuisances; remedies.

- (a) All parking lots shall be designed, constructed and maintained in such a manner that dust, dirt, sand, gravel and similar materials will not be deposited on public streets or rights-of-way. The owner or occupant of any land within the city in which a parking lot exists shall be responsible for cleanup operations.
- (b) The depositing and tracking of dust, dirt, sand, gravel and similar materials from a parking lot shall be unlawful and shall also constitute a nuisance. Whenever it is determined by the city that such a nuisance exists, the owner or occupant of the site shall be given notice in writing of the existence of the nuisance, and if the nuisance is not abated within 15 days of receipt of the written notice, the city may cause the nuisance to be abated and bill the owner or occupant thereof for all costs incurred thereby. In addition, the city engineer may require that unimproved or graveled lots be promptly sealed with bituminous concrete, Portland cement concrete or bituminous surface treatment (double prime and seal) or be modified at the expense of the owner or occupant as may be necessary to assure elimination of the nuisance. The same requirement may also be imposed on parking lots with paved surfaces which have become neglected or not maintained thus causing the nuisance.

(Code 1988, § 32-272; Ord. No. 1991-24, § 1, 3-26-1991)

Sec. 32-273. Parking lots; internal drainage requirements.

- (a) Internal drainage shall be required for parking lots where the city engineer considers sufficient room to exist for ten or more parked cars in standard configuration and where, in the opinion of the city engineer, the combination of rooftop area and parking lot area will cause sufficient stormwater runoff to warrant the requirement. Internal drainage requirements shall be calculated based upon all stormwater runoff within the property to be developed and shall include rooftops and parking areas. Only the concrete apron between the property line and the curb shall be allowed to drain to the street. Catchbasins, as may be required, for the internal drainage shall be provided in all parking areas outside of the street right-of-way, and storm drainage pipes shall extend to the nearest drainage facility of sufficient capacity. The above requirements shall be mandatory except:
- (1) Where underground drainage pipe culverts are not available within 150 feet of the parking lot, and when the developer receives the concurrence of the city engineer, with the certified statement and calculations of the developer's registered professional engineer or a licensed (3B) land surveyor, that no hazard or danger would result from the restricted release of stormwaters into the city street or right-of-way while:

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- a. Using, in the calculations, a stormwater runoff coefficient for a parking lot paved in its entirety with nonporous bituminous concrete; and
 - b. Detaining all stormwaters up to a minimum storm of ten-year frequency with a controlled release into the city right-of-way of only those quantities that would result from a storm of a two-year frequency with the site in its undeveloped state.

Criteria for finding that a hazardous condition exists may include, but are not limited to, the exceeding of an eight-foot spread of stormwater in a curbed street for a two-year storm frequency at the nearest downstream inlet.

- (2) Where alterations are proposed to a building with an existing parking lot with inadequate internal drainage, the facility may continue to be used without installation of internal drainage if:
 - a. The city engineer concurs with the certified statement and calculations of the developer's registered professional engineer or licensed (3B) land surveyor that no hazard or danger would result from continuing the present method, rate and quantity of stormwater discharge and if paved in its entirety with nonporous bituminous concrete pavement; and
 - b. If no addition to the parking area and roof area is performed.
- (b) Where the city engineer considers a danger or hazard to exist, the developer shall, prior to building occupancy, eliminate or minimize his site's contribution to the problem to the satisfaction of the city engineer. Where an addition to the parking lot or roof top area will result in additional stormwater runoff, drainage and/or site modifications shall be performed by the developer as approved by the city engineer.

(Code 1988, § 32-273; Ord. No. 1991-24, § 1, 3-26-1991)

Sec. 32-274. Waiver, modification of requirements.

The city engineer may waive or modify any of the requirements of sections 32-271 through 32-273 in order to ensure site compliance with the provisions of chapter 9.1 (Chesapeake Bay Preservation Area Overlay District Ordinance) of this Code.

(Code 1988, § 32-274; Ord. No. 1991-24, § 1, 3-26-1991)

ARTICLE X. FOOD AND ICE CREAM TRUCKS

Sec. 32-275. Purpose.

The purpose of this article is to provide for regulations relating to the operation of food and ice cream trucks within City of Portsmouth public roadways in order to promote a vibrant sense of place and local entrepreneurship. In recognition thereof, reasonable regulation of street activity is necessary to protect the public health, safety, and welfare, and the interest of the city in the primary use of public streets by vehicular and pedestrian traffic.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-276. 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:

Designated parking location means a specific parking space chosen by the city manager or the city manager's designee, in consultation with the city engineer and the planning director, to be reserved for use by a food truck.

Downtown area means the area of the city located east of Effingham Street, north of Interstate 264, south of Queen Street, and west of the Elizabeth River's Southern Branch.

Food truck means a food establishment that is located in or upon a self-propelled vehicle licensed by the state department of motor vehicles, containing a mobile kitchen, where food and non-alcoholic beverages are stored, prepared, and served in individual portions to walk-up customers.

Food truck policies and procedures manual means a manual containing additional regulations and guidelines established by the city manager governing food trucks and/or food truck vending.

Food truck program means a set of regulations, policies, and procedures approved by the city manager and designed to provide a working regulatory environment within which food trucks shall operate.

Ice cream truck means a food establishment that is located in or upon a self-propelled vehicle licensed by the state department of motor vehicles that sells only ice cream, pre-packaged food, and non-alcoholic beverages, and that does not stop in a fixed location to wait for customers if no customers are present.

Point of sale means the area, such as a window, where the vendor and the customer interact through ordering and purchasing food and non-alcoholic beverages.

Vending means the sale of food and/or nonalcoholic beverages from a food or ice cream truck on any public street or sidewalk.

Vendor means any person, including an employee or agent of another, engaged in vending on any public street or sidewalk.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-277. Violations of article.

- (a) Any person violating any provision of this article shall be guilty of a class 2 misdemeanor.
- (b) The placement of any vending unit or other type of device related to the operation of a food truck or ice cream truck on any sidewalk in violation of the provisions of this article is declared to be a public nuisance detrimental to the health, safety, and welfare of the residents of the city.
- (c) Operating a food truck outside of authorized areas, without the possession of all required permits, and/or without any required consent from the city or private property owners shall be considered a violation of this article and may result in suspension from the food truck program and/or the revocation of the vendor's business license.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-278. Hours of operation.

No vendor shall operate except between the hours of 7:00 a.m. and 9:00 p.m. All mobile vending units must be removed from public property, designated parking locations, or approved vending locations during non-operating hours. Hours of operation may be extended by the city manager or the city manager's designee for special events.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-279. Signs restricted.

- (a) All signs must be firmly attached at all points to the food or ice cream truck. No sign may protrude off of the vehicle or extend off of the vehicle such that any portion of the rear of the sign is visible.
- (b) Flags, banners, portable signs such as A-frames, or other decorative appurtenances, whether attached or detached, are prohibited.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-280. Noise restricted.

- (a) Food and ice cream trucks, including those operating with a generator, are subject to the prohibitions on excessive sound established in section 24-255 (as the same may be amended, moved, or superseded from time to time). Generators shall not operate at decibel levels above the lesser of the limitations set forth in section 24-255(d) (as the same may be amended, moved or superseded from time to time) or the following limitations:
 - (1) *Residential zones; night.* In a residential zone between 10:00 p.m. and 6:00 a.m., sound meeting or exceeding 55 dBA.
 - (2) *Residential zones; day.* In a residential zone between 6:00 a.m. and 10:00 p.m., sound meeting or exceeding 65 dBA.
 - (3) *Commercial zones.* In a commercial zone, sound meeting or exceeding 75 dBA.
- (b) Generators shall either have labels evidencing compliant decibel levels or food or ice cream truck operators shall maintain documentation that shows the generator cannot operate above the decibel levels listed above.
- (c) Food trucks and vendors shall not play any music that is amplified outside of the food truck. Music may be played inside the truck for the entertainment of food truck staff. This requirement does not apply to ice cream trucks.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-281. Lighting restricted.

No lighting, including but not limited to flashing lights and LED screens, shall be displayed on the exterior of the food truck. If a food truck or ice cream truck is operating after dark, appropriate lighting may be used to illuminate the menu board and the customer waiting area adjacent to the vehicle.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-282. Control of trash, debris; containers.

- (a) All trash or debris accumulating within 20 feet of any food truck shall be promptly collected by the vendor and be disposed of in a proper trash container. No vendor shall leave their area of operation until all trash within 20 feet of the food truck has been removed and disposed of.
- (b) Food truck vendors must provide a receptacle for trash as part of their food truck vending. These receptacles may be placed on an adjacent sidewalk within ten feet of the vendor's food truck so long as the receptacle

does not in any way impede pedestrian or bicycle pathways. Vendors must remove all receptacles when the food truck ceases its operation at each specific location.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-283. Designated locations.

- (a) *Outside of Downtown area.* Food trucks may not operate in the public roadways in residential zoning districts outside of the Downtown area. Food trucks may operate in the public roadways in all non-residential zoning districts outside of the Downtown area under the following conditions:
 - (1) The food truck shall be lawfully parked in an existing parking space or parking area.
 - (2) The food truck shall not be within 25 feet of an intersection, crosswalk, driveway, bus stop, or fire hydrant.
 - (3) The food truck shall not be parked in a bicycle lane.
 - (4) Food trucks shall not be allowed to operate in the section of the Olde Towne neighborhood zoned Historic Residential (HR).
- (b) *City property.* Food trucks and other similar types of vehicles offering items for sale to the public may operate on city-owned parcels with permission from the city manager or the city manager's designee.
- (c) *Private property.* The operation of food trucks on private property is governed by section 40.2(J)(6)(h)(ii) of the City of Portsmouth Zoning Ordinance as said section may be amended, moved, or superseded from time to time.
- (d) Under no circumstances shall a food truck operate within 100 feet of any military base installation, military office, or federal building without written permission from an authorized military official.
- (e) No food truck or ice cream truck shall operate on the same property or within 500 feet of a concession stand or other type of location where food or beverages are being sold in conjunction with a youth athletic or scholastic event with proceeds of said sales to benefit a not for profit youth-oriented organization, such as a youth sports league, public or private school, parent-teacher association, or scholastic club, unless the food truck or ice cream truck vendor has obtained the written consent of the not for profit youth-oriented organization.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-284. Operating in the Downtown area.

- (a) Food trucks shall be allowed to operate in the Downtown area only during designated special events and festivals.
- (b) Food trucks shall not be allowed to operate within 500 feet of any entrance to the Portsmouth Pavilion on days when a concert is scheduled except in accordance with regulations and guidelines with section 32-286 and set forth in the Food Truck Policies And Procedures Manual. In establishing regulations and guidelines under this subsection, the city manager may consider the city's interests in public safety, traffic control, the success of the Portsmouth Pavilion as a regional entertainment venue, and such other factors as the city manager deems necessary or appropriate.
- (c) In order to vend in the Downtown area, food trucks must possess either a valid food truck or special events permit issued by the city.

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- (d) Except for food trucks operating in conjunction with and at the request of a microbrewery, food trucks shall not park within 25 feet of the main entrance of any open restaurant.
 - (e) Further rules for hours of operation, parking, and other logistical factors may be established by the city manager as provided in subsection 32-286(a).

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016; Ord. No. 2016-48 , § 2, 7-12-2016)

Sec. 32-285. Licensing requirements.

Except as provided in subsection 32-284(c), no person or business entity, including religious or charitable organizations, shall operate a food truck without a food truck permit issued by the city. The city manager is hereby authorized to establish food truck permit application and approval requirements. Every application for a food truck permit shall be accompanied by an application fee as set forth in appendix A to this Code. Vendors shall display or keep within their food truck proof of all required permits and licenses at all times during operation.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016; Ord. No. 2017-36 , § 1, 5-9-2017)

Sec. 32-286. General operational requirements.

- (a) The city manager is hereby authorized to establish additional regulations and guidelines from time to time for the food truck program, including regulations governing the operation and licensing of food trucks.
- (b) At the city manager's option, additional regulations and guidelines established pursuant to this section 32-286 or section 32-285 may be set forth in the food truck policies and procedures manual.
- (c) Under no circumstances shall a food or ice cream truck operate on the same property or within 500 feet of a concession stand or other type of location where food or beverages are being sold in conjunction with a youth athletic or scholastic event with all proceeds of said sales to benefit a not for profit youth-oriented organization, such as a youth sports league, public or private school, parent-teacher association, or scholastic club. This requirement may be waived, in writing, with the permission of the body overseeing the concession sales.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-287. Ice cream trucks.

This section shall apply only to ice cream trucks. In the event of a direct conflict between the provisions of this section and any other provision of this article, this section 32-287 shall control as to ice cream trucks.

- (a) Ice cream truck vendors may vend from a stopped vehicle in all zoning districts and on all city roadways, provided the vehicle does not impede traffic or use flashing lights while stopped.
- (b) Except as provided in subsection (c) below, ice cream trucks shall not stay parked and shall resume driving after the last customer in line is served. Ice cream trucks shall not wait at a location for customers to arrive for any period of time.
- (c) Ice cream trucks shall be allowed to vend from a single location at special events, provided that they have been properly permitted and have received permission from the city manager or the city manager's designee.
- (d) No ice cream truck may operate without a valid City of Portsmouth business license and a valid City of Portsmouth Health Department permit. Vendors shall display or keep within their ice cream truck proof of all required permits and licenses at all times during operation.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

Sec. 32-288. No property right in vendor locations.

Nothing contained in this article or any regulation established pursuant to this article shall create a property right for any vendor in any vending location, including any designated parking location. Any vendor shall comply immediately with the request of any police officer, firefighter, or city or public utility employee to move his mobile vending truck for emergency reasons or to permit maintenance of the pavement, utilities or other public facilities.

(Ord. No. 2016-08, § 2(Exh. A), 1-26-2016)

ARTICLE XI. WIRELESS FACILITIES¹⁸

DIVISION 1. GENERALLY

Sec. 32-301. Definitions.

The following words and terms shall, for the purposes of this article, have the following respective meanings, 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.

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.

City engineer means the city engineer or his designee.

City facilities means city-owned existing structures located within the public way. City facilities may include, by means of example, city-owned light poles and city-owned traffic signal poles and structures.

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. "Co-location" has a corresponding meaning.

Existing structure means any structure within a public way 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. "Existing structure" includes any structure that is within a public way 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.

¹⁸Editor's note(s)—Ord. No. 2017-108 , § 1(Exh. A), adopted December 12, 2017, in effect, repealed art. XI, §§ 32-301—32-310 and enacted a new art. XI as set out herein. Former art. XI pertained to similar subject matter and derived from Ord. No. 2017-51 , adopted June 27, 2017.

New city facility or new wireless support structure means a city facility or wireless support structure of the type described herein 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 approval.

Non-small cell facility means a wireless facility which is not a small cell facility.

Public street means the surface of and the space above and below any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including non-paved surfaces, now or hereafter held by the city for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer easements or similar public use.

Public way means and includes all public streets held or controlled by the city, but only to the extent of the city's right, title, interest or authority to grant a license to occupy and use such public streets for telecommunications facilities.

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. Small cell facilities include, but are not limited to, micro-wireless facilities.

Utility pole means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth of Virginia that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

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 facilities include, but are not limited to, small cell facilities and micro-wireless facilities.

Wireless facilities franchise agreement means an agreement approved by city council and executed by the city and a wireless services provider or wireless infrastructure provider granting a non-exclusive, revocable license to use the public ways of the city for the purposes of constructing, installing, using, maintaining, testing, inspecting, operating, repairing, and removing wireless facilities pursuant to and in accordance with the agreement and this article.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications services 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 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 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 service provider means a provider of wireless services.

Wireless support structure means a freestanding structure, such as a pole, monopole, tower, either guyed or self-supporting, or a suitable existing structure or alternative structure designed to support or capable of

supporting wireless facilities. Wireless support structure does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-302. Violations of article.

- (a) A violation of any provision of this article shall constitute a class I misdemeanor.
- (b) In the event of violation by any person of any provision of this article, the city may immediately suspend all permits, rights and franchises held by such person.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-303. Relationship to right-of-way permit.

Nothing in this article shall be construed to waive the independent requirement to obtain a right-of-way permit pursuant to article II of chapter 32 for any work involving wireless facilities that by its nature triggers the permit requirement set forth in section 32-58.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-304. Permits revocable.

Any permit issued under this article shall be revocable by the city engineer for non-compliance with any term of the permit or any applicable wireless facilities franchise agreement, or for non-compliance with any applicable requirement of this chapter 32.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Secs. 32-305—32-309. Reserved.

DIVISION 2. CO-LOCATION OF SMALL CELL FACILITIES ON EXISTING STRUCTURES

Sec. 32-310. Applicability.

This division applies to the co-location of small cell facilities on existing structures within a public way except where the existing structure is a city facility.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-311. Permit required.

No person shall co-locate a small cell facility in or on any existing structure located within any public street, lane, alley or other public right-of-way in the city without first obtaining a permit from the city engineer in accordance with this article.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-312. Application for permit.

- (a) The city engineer shall establish a standard application form for permits under this section.
- (b) Applicants may submit not more than 35 individual permit requests with each application.
- (c) Applicants shall deliver applications to the city engineer or the city engineer's designee, together with an application fee. No application shall be reviewed unless and until the application fee has been paid.
- (d) The application fee shall be \$100.00 each for up to five small cell facilities on a permit application, and \$50.00 apiece for each additional small cell facility on a permit application.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-313. Materials to be submitted with application.

- (a) When filing an application, an applicant shall submit the applicant's name and a valid electronic mail address at which the applicant may be contacted;
- (b) When filing an application, for each individual permit requested in the application, the applicant shall provide:
 - (1) The address and latitude/longitude of the existing structure on which the small cell facility will be co-located;
 - (2) The name of the owner of the 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) Copies of any approvals for the site granted by a federal agency, including conditions imposed by that agency;
 - (4) A statement that the small cell facility and operation thereof will not materially interfere with other pre-existing communications facilities;
 - (5) To the extent permitted by law, documentation that the small cell facility and operation thereof will not materially interfere with other pre-existing communications facilities;
 - (6) Plans clearly depicting the dimensions and specifications of the small cell facility, including the antennae, base station, and all assorted wireless equipment;
 - (7) Detailed elevation drawings showing the co-location of the small cell facility, including the base station and all other associated equipment on the existing structure; and
 - (8) Such additional materials as are listed on the application form established by the city engineer and are reasonably required by the city engineer to determine the approvability of a permit in accordance with section 32-315.
- (c) Any application not including all of the information listed in this section may be deemed incomplete by the city engineer.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-314. Application review process.

- (a) Provided applicant has provided a contact email address and paid the appropriate application fee, the city engineer or designee shall notify the applicant by email within ten days of application submittal if the application is incomplete. The notice shall specify why the application is considered incomplete. If the city engineer or designee does not so notify applicant, the application shall be deemed complete.
- (b) During review of a complete application, the city engineer or designee may request applicant to provide additional information which is reasonably required to the extent permitted by law to determine the approvability of a permit in accordance with section 32-315.
- (c) Within 60 days of submittal of a complete application, the city engineer or designee shall, for each individual permit request included in an application: (i) approve the individual permit request; (ii) deny the individual permit request in writing, including a written explanation of the reason[s] for denial. Except where the city and applicant have agreed upon an extension, any individual permit request not acted on within 60 days or such other period required by federal law shall be deemed approved.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-315. Basis for denial.

No individual permit request included in a complete application shall be denied except for one or more of 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, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or
- (4) Conflict with a city ordinance adopted pursuant to Va. Code § 15.2-2306.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-316. Micro-wireless facilities.

- (a) 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 within the public way is exempt from the application and permitting requirements of this division.
- (b) Any person who installs micro-wireless facilities as provided in subsection (a) and any subsequent owner, lessee or operator thereof shall ensure that the facilities are maintained in compliance with all national safety codes and so as not to constitute a nuisance or threat to the public safety.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-317. Applicability to co-location of small cell facilities on private property.

Applications for co-location of small cell facilities on structures located on private property or otherwise outside the public way shall comply with the requirements of section 32-312 except that such applications shall be submitted to, and processed by, the zoning administrator. Except as provided in the foregoing sentence, the provisions of this division apply only to applications for permits to co-locate small cell facilities on existing structures within the public way. Applications for co-location of small cell facilities on existing structures located on private property or otherwise outside the public way shall be administered by the zoning administrator in accordance with the requirements of state law and chapter 40.2 of the City Code.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Secs. 32-318—32-324. Reserved.

DIVISION 3. CO-LOCATION OF NON-SMALL CELL FACILITIES ON EXISTING STRUCTURES

Sec. 32-325. Applicability.

This division applies to the co-location of non-small cell facilities on existing structures within a public way except where the existing structure is a city facility.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-326. Wireless facilities franchise agreement required.

No person shall co-locate non-small cell facilities on existing structures in the public way except pursuant to, and in accordance with the terms of, a wireless facilities franchise agreement.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-327. Permit required.

Any party to a wireless facilities franchise agreement who desires to co-locate non-small cell facilities on existing structures in the public way must first obtain a permit from the city engineer in accordance with this division.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-328. Application for permit.

- (a) The city engineer shall establish a standard application form for permits under this section.
- (b) The application fee shall be \$100.00 apiece for each individual permit request included with a single application. No application shall be reviewed unless and until the application fee has been paid.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-329. Materials to be submitted with application.

- (a) When filing an application, an applicant shall submit the applicant's name and a valid electronic mail address at which the applicant may be contacted;
- (b) When filing an application, for each individual permit requested in the application the applicant shall provide:
 - (1) The address and latitude/longitude of the existing structure on which the wireless facility will be co-located;
 - (2) The name of the owner of the 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) Copies of any approvals for the site granted by a federal agency, including conditions imposed by that agency;
 - (4) A statement and supporting documentation confirming that the wireless facility and operation thereof will not materially interfere with other pre-existing communications facilities;
 - (5) Plans clearly depicting the dimensions and specifications of the wireless facility, including the antennae, base station, and all assorted wireless equipment;
 - (6) Detailed elevation drawings showing the co-location of the wireless facility, including the base station and all other associated equipment on the existing structure;
 - (7) A statement affirming that, to the best of its knowledge, the wireless services provider or wireless infrastructure provider is not in breach of its wireless facilities franchise agreement; and
 - (8) Such additional materials as are listed on the application form established by the city engineer and are reasonably required by the city engineer to the extent permitted by law to determine the approvability of a permit in accordance with section 32-330.
- (c) Any application not including all of the information listed in this section may be deemed incomplete by the city engineer.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-330. Review and determination.

- (a) The applicant shall provide such additional information as the city engineer may reasonably request during review of the application.
- (b) The city engineer shall deny a permit if:
 - (1) The proposed wireless facilities do not comply with applicable law and the terms of the wireless facilities franchise agreement;
 - (2) The proposed wireless facilities have a negative aesthetic impact on the surrounding area, considering the size and design of the facilities and the historic, residential, or commercial character of the surrounding area;
 - (3) The proposed wireless facilities pose a risk to the public safety, including but not limited to public travel within the public way;

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- (4) The proposed wireless facilities are inconsistent with the city's existing or planned public safety communications system; or
 - (5) Alternative, less impactful locations which reasonably meet the needs of the applicant are available for placement of the wireless facilities.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-331. Conditions of approval.

A permit granted under this section shall be subject to such conditions as the city may reasonably require.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Secs. 32-332—32-339. Reserved.

DIVISION 4. CO-LOCATION OF WIRELESS FACILITIES ON CITY FACILITIES

Sec. 32-340. Applicability.

This division applies to the co-location of wireless facilities on city facilities within a public way.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-341. Wireless facilities franchise agreement required.

No person shall co-locate wireless facilities on city facilities except pursuant to, and in accordance with the terms of, a wireless facilities franchise agreement.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-342. Permit required.

Any party to a wireless facilities franchise agreement who desires to co-locate wireless facilities on city facilities must first obtain a permit from the city engineer in accordance with this division.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-343.1. Application for permit; small cell facilities.

- (a) The city engineer shall establish a standard application form for permits for the co-location of small cell facilities on city facilities within the public way under this section.
- (b) Applicants may submit not more than 35 individual permit requests with each application.
- (c) Applicants shall deliver applications to the city engineer or city engineer's designee together with an application fee. No application shall be reviewed unless and until the application fee has been paid.
- (d) The application fee shall be \$100.00 apiece for each of the first five individual permit requests included with a single application, plus \$50.00 apiece for each additional individual permit request above five included with a single application.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Editor's note(s)—Ord. No. 2019-75 , § 1(Exh. A), adopted October 22, 2019 renumbered § 32-343 as § 32-343.1.

Sec. 32-343.2. Application for permit; non-small cell facilities.

- (a) The city engineer shall establish a standard application form for permits for the co-location of non-small cell facilities within the public way under this section.
- (b) Applicants shall deliver applications to the city engineer or city engineer's designee together with an application fee. No application shall be reviewed unless and until the application fee has been paid.
- (c) The application fee shall be \$100.00 apiece for each individual permit request included with a single application.

(Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-344. Materials to be submitted with application.

- (a) When filing an application, an applicant shall submit the applicant's name and a valid electronic mail address at which the applicant may be contacted;
- (b) When filing an application, for each individual permit requested in the application, the applicant shall provide;
 - (1) The address and latitude/longitude of the city facility on which the wireless facility is intended to be co-located;
 - (2) Copies of any approvals for the site granted by a federal agency, including conditions imposed by that agency;
 - (3) A statement and supporting documentation confirming that the wireless facility and operation thereof will not materially interfere with other pre-existing communications facilities;
 - (4) Plans clearly depicting the dimensions and specifications of the wireless facility, including the antennae, base station, and all assorted wireless equipment;
 - (5) Detailed elevation drawings showing the co-location of the wireless facility, including the base station and all other associated equipment, on the city facility;
 - (6) A proposed construction schedule for the installation of the wireless facility;
 - (7) A statement affirming that, to the best of its knowledge, the wireless services provider or wireless infrastructure provider is not in breach of its wireless facilities franchise agreement; and
 - (8) Such additional materials as are listed on the application form established by the city engineer and are reasonably required by the city engineer to the extent permitted by law to determine the approvability of a permit in accordance with section 32-345.
- (c) Any application not including all of the information listed in this section may be deemed incomplete by the city engineer.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-345. Review and determination.

- (a) The applicant shall provide such additional information as the city engineer may reasonably request to the extent permitted by law during review of the application.
- (b) For small cell facilities, the application review process shall comply with section 32-314.
- (c) The city engineer shall deny a permit if:
 - (1) The proposed wireless facilities do not comply with applicable law and the terms of the wireless facilities franchise agreement;
 - (2) The proposed wireless facilities have a negative aesthetic impact on the surrounding area, considering the size and design of the facilities and the historic, residential, or commercial character of the surrounding area;
 - (3) The proposed wireless facilities pose a risk to the public safety, including, but not limited to, public travel within the public way;
 - (4) The proposed wireless facilities are inconsistent with the city's existing or planned public safety communications system;
 - (5) The proposed wireless facilities pose a risk to the stability or efficacy of the city facility;
 - (6) The existing or planned uses of the city facility are inconsistent with the co-location of the proposed wireless facilities;
 - (7) The city engineer deems the city facility inappropriate for the co-location of the proposed wireless facilities; or
 - (8) Alternative, less impactful locations which reasonably meet the needs of the applicant are available for placement of the wireless facilities.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-346. Permit conditions.

Any permit granted under this section shall be subject to the following conditions:

- (a) The permittee shall be solely responsible for all costs pertaining to the installation, placement, maintenance, replacement or removal of the wireless facility on or from the city facility;
- (b) The permittee shall be responsible for repairing all damage to the city facility resulting from the installation, placement, maintenance, replacement or removal of the wireless facility on or from the city facility, or for paying the cost incurred by the city to repair the city facility;
- (c) In addition to complying with the right-of-way permit requirements set forth in article II of chapter 32, the permittee shall notify the city engineer prior to performing any work on the installation, placement, maintenance, replacement or removal of wireless facilities on or from city facilities;
- (d) Prior to authorizing the commencement of work for the co-location, the city engineer may require the permittee to provide a bond securing the cost of completion of the co-location and the permittee's obligations under this section 32-346 and section 32-347;
- (e) The issuance of a permit for the co-location of a wireless facility on a city facility does not constitute a representation or warranty of the fitness of the city facility for the use intended by the co-location;

(f) The city reserves the right to remove any city facility at any time for the protection of the public health, safety or welfare, with or without notice to the owner of the co-located wireless facilities, and the city shall have no liability for any such removal; and

(g) Such other conditions as the city may reasonably require.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-347. Construction of new city facility.

If as part of the permitted co-location the applicant intends to construct a new city facility, whether to replace an existing city facility or otherwise, then (1) the new city facility shall be constructed in strict accordance with plans and specifications approved by the city engineer, (2) the applicant shall not commence to install the wireless facility onto the new city facility until the city engineer has inspected and accepted the new city facility, and (3) the applicant shall execute such documents or instruments as the city may require to confirm city ownership of the new city facility to the extent permitted by law.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Secs. 32-348—32-359. Reserved.

DIVISION 5. PLACEMENT OF NEW WIRELESS SUPPORT STRUCTURES WITHIN THE PUBLIC WAY

Sec. 32-360. Applicability.

This division applies to the placement of new wireless support structures within a public way.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-361. Wireless facilities franchise agreement required.

No person shall place new wireless support structures within the public way except pursuant to, and in accordance with the terms of, a wireless facilities franchise agreement.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-362. Permit required.

Any party to a wireless facilities franchise agreement who desires to place new wireless support structures within the public way must first obtain a permit from the city engineer in accordance with this division.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-363. Application for permit.

(a) The city engineer shall establish a standard application form for permits under this section.

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- (b) The application fee shall be \$250.00 apiece for each individual permit request included with a single application. No application shall be reviewed unless and until the application fee has been paid.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Sec. 32-364. Materials to be submitted with application.

- (a) When filing an application, an applicant shall submit the applicant's name and a valid electronic mail address at which the applicant may be contacted;
- (b) When filing an application, for each individual permit requested in the application the applicant shall provide:
- (1) The address and latitude/longitude of the location where the applicant intends to place the wireless support structure;
 - (2) Copies of any approvals for the site granted by a federal agency, including conditions imposed by that agency;
 - (3) A statement and supporting documentation confirming that the wireless facility to be attached to the wireless support structure and operation thereof will not materially interfere with other pre-existing communications facilities;
 - (4) Plans clearly depicting the location, dimensions and specifications, including materials, of the proposed wireless support structure;
 - (5) Plans clearly depicting the dimensions and specifications of the wireless facility or facilities to be attached to the wireless support structure, including the antennae, base station, and all assorted wireless equipment;
 - (6) Detailed elevation drawings showing the proposed wireless support structure and all wireless facilities to be attached thereto, including the base station and all other associated equipment;
 - (7) A statement affirming that, to the best of its knowledge, the wireless services provider or wireless infrastructure provider is not in breach of its wireless facilities franchise agreement; and
 - (8) Such additional materials as are listed on the application form established by the city engineer and are reasonably required by the city engineer to the extent permitted by law to determine the approvability of a permit in accordance with section 32-365.
- (c) Any application not including all of the information listed in this section may be deemed incomplete by the city engineer.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-365. Application review process.

- (a) Provided applicant has provided a contact email address and paid the appropriate application fee, the city engineer or designee shall notify the applicant by email within ten days of application submittal if the application is incomplete. The notice shall specify why the application is considered incomplete. If the city engineer or designee does not so notify applicant, the application shall be deemed complete.
- (b) During review of a complete application, the city engineer or designee may request applicant to provide additional information which is reasonably required to the extent permitted by law to determine the approvability of a permit in accordance with section 32-366.

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- (c) Within 90 days of submittal of a complete application, the city engineer or designee shall, for each individual permit request included in an application: (i) approve the individual permit request; (ii) deny the individual permit request in writing, including a written explanation of the reason[s] for denial. Except where the city and applicant have agreed upon an extension, any individual permit request not acted on within 90 days or such other period required by federal law shall be deemed approved.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017)

Editor's note(s)—Ord. No. 2019-75 , § 1(Exh. A), adopted October 22, 2019, renamed § 32-365 from "review and determination" to "application review process" and renumbered §§ 32-366 and 32-367 as §§ 32-368 and 32-369.

Sec. 32-366. Basis for denial.

The city engineer shall deny a permit if:

- (a) The proposed wireless support structure or wireless facilities do not comply with applicable law and the terms of the wireless facilities franchise agreement;
- (b) The proposed wireless support structure or wireless facilities have a negative aesthetic impact on the surrounding area, considering the size and design of the structure or facilities and the historic, residential, or commercial character of the surrounding area;
- (c) The proposed wireless support structure or wireless facilities pose a risk to the public safety, including, but not limited to, public travel within the public way;
- (d) The proposed wireless support structure or wireless facilities are inconsistent with the city's existing or planned public safety communications system;
- (e) The proposed wireless support structure does not comply with the requirements of article IV of chapter 32; or
- (f) Alternative, less impactful locations which reasonably meet the needs of the applicant are available for placement of the wireless facilities intended to be housed by the wireless support structure.

(Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-367. Notification of denial.

If an application submitted under this division 5 is denied in whole or in part, the city engineer shall provide the applicant with a written statement of the reasons for the disapproval and, if the city engineer is aware of modifications to the proposed wireless support structure or wireless facilities that, if made, would result in approval, the city engineer shall identify the modifications in the written statement.

(Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Sec. 32-368. Permit conditions.

Any permit granted under this section shall be subject to the following conditions:

- (a) The permittee and the wireless support structure shall comply with all requirements applicable to street poles under article IV of chapter 32; and
- (b) Such other conditions as the city may reasonably require.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Editor's note(s)—See editor's note, § 32-366.

Sec. 32-369. Use by city.

To the extent permitted by law, the city reserves the right to request the placement of city-owned communication and signal wires and other related equipment and facilities on all wireless support structures erected in its public ways, free of cost or expense to the city, provided that the city equipment and facilities do not interfere with the structural integrity of the wireless support structure and do not interfere with the use of the wireless support structure by the owner and other existing users. An applicant's refusal of a request shall not be considered as a factor in the review and approval or denial of a permit application.

(Ord. No. 2017-108 , § 1(Exh. A), 12-12-2017; Ord. No. 2019-75 , § 1(Exh. A), 10-22-2019)

Editor's note(s)—See editor's note, § 32-366.

Sec. 38-366. Regulations applicable to city owned land adjoining city lakes and shores.

- (a) No person shall go on any city-owned land adjoining any city-owned property outside of posted hours unless he is a warden, law enforcement officer, member of a rescue unit, or other authorized personnel.
- (b) No person shall bring, possess, or drink any alcoholic beverage or possess or be under the influence of any drug or intoxicant of any kind while on the city lakes or on any city-owned land adjoining any city lake.
- (c) No person shall camp, hike, bicycle, motorcycle, or use all terrain vehicles or any type of recreational vehicle on city-owned watershed property without the prior written permission of the director of public utilities.
- (d) No person shall kindle, build, maintain or use a fire on city-owned property except in grills and fireplaces located in areas designated by the director of public utilities.
- (e) No person shall carry or possess any BB or pellet gun or paint-ball gun on a city lake unless expressly authorized by the director of public utilities in writing, unless such person is a state, local or federal law enforcement officer or game warden acting in the performance of their official duties.
- (f) No person shall willfully throw or discharge or cause to be discharged any arrow, stone, missile or other projectile by hand or from a bow, crossbow, slingshot or by any other comparable device on any city lake or city-owned land adjoining any city lake.
- (g) Automobiles and trucks are allowed on city-owned watershed property only to launch and retrieve boats at designated city-owned boat ramps except for those automobiles and trucks used by law enforcement officers, game wardens, forest wardens and city employees in the performance of their duties.
- (h) No person shall use city-owned watershed property for storage of any sort or for unauthorized vehicular parking.
- (i) No person shall cause any loud, disturbing or unnecessary noise through the use of any sound amplification equipment, radio or other means on any city lake or on any city-owned land adjoining any city lake.
- (j) No person shall have a special event, which shall include parades, processions, or performances of any kind on city-owned watershed property unless they have received authorization in writing from the director of public utilities prior to such event.
- (k) No person shall hunt or trap on any city-owned lake or on any city-owned land adjacent to any city-owned lake unless such person has been authorized in writing by the director of public utilities or is game warden acting in the official performance of his duties.

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- (l) No person shall bring, ride or drive a horse or pony or cause or permit any other animal owned or under his custody or control to enter any city-owned lake unless he has received written authorization from the director of public utilities.
 - (m) No person shall sell or rent any goods, bait, fishing tackle, food and soft drinks except as authorized by the director of public utilities.
 - (n) (1) No person shall dump or otherwise dispose of trash, oil, chemicals, herbicides, pesticides, paint or paint related products, refuse, garbage, waste, debris or other material, including but not limited to construction materials, tires, appliances, ashes, grass cuttings and other yard waste on any city lake or on any city-owned property adjacent to any city-owned lake. Each day that such trash, oil, chemicals, herbicides, pesticides, paint or paint related products, refuse, garbage, waste, debris or other material remain on any city lake or on any city-owned property adjacent to any city-owned lake shall constitute a separate offense. The city shall be entitled to reimbursement of reasonable costs associated with mitigation, cleanup, investigation and litigation associated with such acts. Prosecution and/or conviction under this provision shall not bar the city from prosecution of this offense under other applicable state and federal statutes.
 - (2) When a person is convicted of a violation of this provision, the court may suspend the imposition of the sentence, on the condition that the defendant remove or cause to be removed the trash, oil, chemicals, herbicides, pesticides, paint or paint products, refuse, garbage, waste, debris or other materials, and pay for any damages and extra water treatment expense caused by the dumping, and upon payment of the city's reasonable costs of investigation and litigation, if any.
 - (o) No person shall dispose of any litter on any city lake or on any city-owned property adjacent to a city lake except in litter receptacles provided by the city expressly for this purpose. The term "litter" as used in this section shall mean paper, food wrappers, bottles or cans, but shall not include garbage, refuse, trash, oil, chemicals, pesticides, herbicides, construction debris, paint or paint products or other materials.
 - (p) No person shall withdraw water, for any purpose whatsoever, from the lakes owned by the city or lay or place any pipes or lines that could withdraw water from the city lakes or city-owned property without the prior, written consent of the director of public utilities.

(Ord. No. 2009-114, § 1, 11-24-2009)

Sec. 40.2-202. Residential Zoning Districts.

- (A) *General Purposes.* The residential zoning districts established in this Ordinance are intended to provide diverse housing options in a healthy and safe environment in which to live, recreate, and shop at a neighborhood level. More specifically, they are intended to:
 - (1) Provide appropriately located lands for residential development that are consistent with the comprehensive plan;
 - (2) Ensure adequate light, air, privacy, and recreational and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;
 - (3) Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;
 - (4) Provide for a diverse range of residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;
 - (5) Provide for safe and efficient vehicular access and circulation and promote bicycle, pedestrian, and transit-friendly neighborhoods;

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- (6) Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development or require a residential environment while protecting residential areas from incompatible nonresidential development; and
 - (7) Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the city's goals and objectives.
- (B) *Neighborhood Residential (NR) District.* The Neighborhood Residential (NR) district is established to accommodate single-family detached residential dwellings at low densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings or that is detrimental to the quiet residential nature of the district.
- (C) *General Residential (GR) District.* The General Residential (GR) district is established to accommodate primarily single-family detached, attached residential, and two- to four-family dwellings, subject to design standards to ensure their compatibility with the single-family character of the district, at moderate densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family, two-family, or three- to four-family dwellings, or that is detrimental to the quiet residential nature of the district.
- (D) *Urban Residential (UR) District.* The Urban Residential (UR) district is established to accommodate a range of residential development as a principal use, along with mixed-use, neighborhood-serving commercial development, and institutional uses to encourage diverse development. These districts are mid-density, traditional neighborhoods.
- (E) *Multi-Family Urban Residential (UR-M) District.* The Multi-Family Urban Residential (UR-M) district is established to accommodate a diverse range of residential development as a principal use, along with mixed-use, neighborhood-serving commercial development, and institutional uses to encourage diverse development. These districts are high-density, urban core settings. This district was formerly entitled High Density Urban Residential (UR-H).

Sec. 40.2-301. Off-Street Parking, Loading, Circulation.

- (A) *Purpose and Intent.*
- (1) The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance.
 - (2) The standards in this section are intended to provide for adequate off-street parking while allowing the flexibility needed to accommodate alternative solutions.
 - (3) The standards are also intended to achieve City policies of supporting development and redevelopment of commercial corridors and downtown areas.
 - (4) The standards are proposed to accommodate appropriate infill development and encourage pedestrian-oriented development, while avoiding excessive paved surface areas, promoting low impact development, and safeguarding historic resources.
- (B) *Applicability.*
- (1) Except where exempted by Sec. 40.2-301(B)(4) and Sec. 40.2-301(E)(3), the off-street parking, loading, and circulation standards of this section shall apply to all new development in the city.
 - (2) All vehicular parking areas, stacking areas, methods of vehicular ingress and egress, internal aisles, and loading spaces required by this section may be referred to as "vehicular use areas" as well as off-street parking areas.

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- (3) This section does not apply to bicycle parking spaces except as specified in Table 40.2-301(1).
 - (4) Exceptions in the Downtown (D1) District:
 - (a) No off-street parking or loading facility shall be required for those properties zoned D1 T4, D1 T5 or D1 T6 and which are located downtown, north of Interstate 264.
 - (b) Where parking or loading is provided, parking shall be designed in accordance with the requirements of this section of the Ordinance, with the exception of Sec. 40.2-301(D) and Sec. 40.2-301(E).
 - (c) Parking in the D1 T3, D1 T5, D1 SD, and D1 T4 district south of Interstate 264 district shall be in accordance with the number of spaces required in Table 40.2-301(1).
- (C) *General Standards.*
- (1) *Commercial and Industrial Zoning Districts.*
 - (a) In commercial and industrial districts, a vehicular use area or off-street parking area shall be used solely for the parking of licensed motorized vehicles in operating condition.
 - (b) Required spaces may not be used for the display of goods for sale or lease or storage of vehicles, boats, motor homes, campers, mobile homes, or building materials.
 - (2) *Residential Zoning Districts.*
 - (a) In residential districts, in addition to the standard driveway parking spaces provided in conjunction with any single-family dwelling, up to one additional off-street parking space may be provided for a commercial vehicle on a single-family lot in accordance with Sec. 40.2-217(I)(3)(m) Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Homes.
 - (b) Except where expressly authorized in this Ordinance, parking on unimproved surfaces in residential districts is prohibited.
 - (3) *Off-Street Parking.*
 - (a) Off-street parking areas of four or more spaces and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles and other circulation features.
 - (b) Off-street parking is prohibited on grass and other unimproved surfaces.
 - (4) *Surfacing.*
 - (a) All off-street parking and loading areas shall be surfaced with asphalt, concrete, brick, stone pavers, aligned concrete strips, or an equivalent material.
 - (b) Development in the Industrial (IN) zoning district may use crushed stone or a comparable alternative surfacing material.
 - (c) In cases where alternative surfacing materials are allowed, the surfaces shall be maintained in a smooth, well-graded, and dust-free condition.
 - (5) *Arrangement.*
 - (a) Off-street parking and loading areas shall be arranged for convenient access and safety of pedestrians and vehicles.
 - (b) Off-street parking areas with four or more spaces shall be arranged so no parking or maneuvering incidental to parking shall occur on a public street or sidewalk, and a vehicle may be parked or

un-parked without moving another vehicle (except as provided in Sec. 40.2-301(M)(6) Tandem Parking).

- (c) Except for parking areas serving single-family detached, townhouse, and two-family dwellings, all off-street parking and loading areas shall be arranged so that no vehicle is required to back from such areas directly onto a street.
- (6) *Exterior Lighting.* When lighted, off-street parking and loading areas shall be lighted so as to prevent glare or illumination exceeding maximum allowable levels on adjacent land (See Table 40.2-306 Maximum Illumination Levels), and unless exempted, shall comply with the standards of Sec. 40.2-306 Exterior Lighting.
- (7) *Landscaping.* Except for off-street parking areas serving single-family detached and two-family dwellings, off-street parking and loading areas shall comply with the standards of Sec. 40.2-304(D) Vehicular Use Area Landscaping.
- (8) *Maintained in Good Repair.*
 - (a) All off-street parking, loading, and circulation areas shall be maintained in a safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.
 - (b) All off-street parking, loading, and circulation areas shall be periodically painted or otherwise restored to maintain a clear identification of separate parking stalls or loading areas.
- (9) *Markings.*
 - (a) Each required off-street parking space and off-street parking facility must be identified by surface markings and must be maintained in a manner so as to be readily visible and accessible at all times.
 - (b) Such markings must be arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles.
 - (c) Markings required to be maintained in a highly visible condition include striping, directional arrows, and lettering on signs and in handicapped-designated areas.
 - (d) One-way accesses into required parking facilities must be identified by directional arrows.
 - (e) Any two-way access located at any angle other than 90 degrees to a street must be marked with a traffic separation stripe the length of the access. This requirement does not apply to aisles.
- (10) *Placement.* The location or placement of off-street parking areas on a development site shall be limited in accordance with the standards of this section, Sec. 40.2-217(D)(1)(d) Multi-Family Use-Standards and Sec. 40.2-217(F) Commercial Use-Standards, as appropriate.
- (11) *Minimum Separation.*
 - (a) All off-street parking areas shall be separated at least seven feet from buildings in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area.
 - (b) In the event foundation plantings are required in accordance with Sec. 40.2-304(H), Site Landscaping, additional minimum separation may be needed to maintain a minimum five-foot-wide-pedestrian clear zone along with the minimum area needed for landscaping.
 - (c) This separation may be eliminated to the rear of buildings in areas designed for unloading and loading of materials.
- (12) *Completion.*

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- (a) All off-street parking, loading, and circulation areas shall be completed prior to the issuance of a Certificate of Occupancy (CO) for the development they serve.
 - (b) In the case of phased development, off-street parking, loading, and circulation areas should only be provided for portions of the development with development plan or subdivision approval.
- (D) *Calculation of Required Off-Street Parking Spaces.*
- (1) *Fractions.* When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.
 - (2) *Multiple Uses or Mixed Use Development.* Unless otherwise approved, development containing more than one use must provide off-street parking in an amount equal to the total requirements of all individual uses. This does not apply to multi-tenant retail centers.
 - (3) *Seat-Based Standards.* Except as otherwise provided in this section, where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the design capacity of the areas used for seating.
 - (4) *Floor-Area Based Standards.* Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area.
 - (5) *Occupancy- or Capacity-Based Standards.* Except as otherwise provided in this section, where the minimum number of off-street parking spaces required is based on the number of employees, students, or residents, all computations shall be based on the largest number of persons working on any single shift (for employees), maximum enrollment (for students), or the maximum fire-rated capacity (for residents), whichever is applicable.
 - (6) *On-Street Parking.* When available, on-street parking on public or private streets, driveways, or drives may be used to satisfy the off-street parking standards of this section.
 - (7) *Driveways Used to Satisfy Requirements.*
 - (a) For single-family detached, townhouse, and two-family dwellings driveways may be used to satisfy minimum off-street parking standards, provided sufficient space is available to satisfy the standards of this section and this Ordinance.
 - (b) Driveway space in the right-of-way cannot be used to satisfy this requirement.
- (E) *Off-Street Parking.*
- (1) *Parking Plan Required.*
 - (a) Uses with four or more parking spaces or equivalent area shall submit a parking plan as appropriate.
 - (b) The parking plan shall be drawn to scale, and accurately designate the required parking spaces, access aisles, and driveways, and the relation of the off-street parking facilities to the development of the facilities they are designed to serve.
 - (c) Off-street parking areas of four or more spaces and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles and other circulation features.
 - (2) *Minimum Number of Off-Street Parking Spaces Required.* Unless otherwise expressly stated in this section, the minimum number of off-street parking spaces shall be provided in accordance with Table 40.2-301(1) Minimum Off-Street Parking Standards.

TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS

"sf." = square feet; "ft." = feet; "DU" = dwelling unit; "AC" = acre		
USE TYPE	AUTO SPACES	BICYCLE SPACES
RESIDENTIAL		
Household Living		
Dwelling, Single-Family Detached	2 per DU	None
Dwelling, Two-Family	2 per DU	None
Dwelling, Three- to Four-Family	2 per DU	None
Dwelling, Townhouse	2 per DU	1 per 4 DU
Dwelling, Multi-Family	1.5 per DU	Long Term: 1 per 4 DU PLUS Short Term: 10%
Dwelling, Upper Floor	1 per DU	1 per 4 DU
Manufactured Home	None	None
Boarding House	1 per guest room	None
Group Living		
Emergency Shelter	None	None
Family Care Home	3 per home	None
Group Home	1 per employee PLUS 1 per every 3 adults	None
Halfway House	1 per employee PLUS 1 per every 3 adults	None
Homeless Shelter	1 per employee PLUS 1 per every 3 adults	None
Single Room Occupancy (SRO)	0.75 per guest room	1 per 4 beds
PUBLIC AND INSTITUTIONAL		
Community Services		
Community Center	1 per 500 sf.	10% of vehicle parking provided
Senior Center		
Youth Club Facility		
Conferences and Training		
Auditorium	1 per 5 persons of design capacity	5% of vehicle parking provided
Convention Center		
Day Care		
Child Day Care Center	1 per employee on the largest shift PLUS 1 per 1 per every 5 children/adults	None
Adult Day Care Center		
Family Home Day Care	2 PLUS minimum residential parking requirement	None
Educational Facilities		
Business or trade school	1 per 500 sf.	5% of vehicle parking provided
Educational Facility, College/University	1 per 500 sf.	5% of vehicle parking provided

Educational Facility, Primary/Secondary	1 per classroom	3 per classroom
Government Facilities		
Cultural Facility	1 per 1,000 sf.	None
Government Facility	1 per 500 sf.	5% of vehicle parking provided
Health Care Facilities		
Assisted Living Facility	1 per 2 beds	None
Drug And Alcohol Treatment Facility	1 per 500 sf.	None
Guidance Services	1 per 500 sf.	None
Hospital	1 per 300 sf.	5% of vehicle parking provided
Medical or Dental Clinic/Office	1 per 500 sf.	5% of vehicle parking provided
Medical Treatment Facility	1 per 2 beds	None
Psychiatric Treatment Facility	1 per 2 beds	None
Institutions		
Civic, Social, or Fraternal Clubs or Lodges	1 per 500 sf.	5% of vehicle parking provided
Correctional Facility	1 per 500 sf.	5% of vehicle parking provided
Religious Institution	1 per every 6 seats in worship area	1 per 1,500 sf. of assembly area
Parks and Open Space		
Cemetery, Columbaria, Mausoleum	None	None
Community Garden	None	None
Park, Public and Private	None for less than 1 acre; 1 acre or more, see Table 40.2-301(2)	Greater of 10 or 5% of vehicle parking provided
Transportation		
Helicopter Landing Facility	None	1 per 2,000 sf.
Passenger Terminal, Surface Transportation	1 per 500 sf. of office space PLUS 1 per 5 seats	
Taxicab Service	1 per 500 sf.	
Utilities		
Broadcasting or Communication Tower	1	None
Telecommunications Tower, Freestanding	1	
Utility, Major	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Utility, Minor	None	None
COMMERCIAL		
Adult Uses		
Adult Entertainment Establishment	1 per 500 sf.	10% of vehicle parking provided

Adult Retail Store	1 per 500 sf.	10% of vehicle parking provided
Animal Care		
Animal Grooming	1 per 500 sf.	1 per 2,500 sf.
Animal Shelter		
Domestic Animal Breeding		
Kennel, Indoor		
Kennel, Outdoor		
Veterinary Clinic		
Eating (Beverage) Establishments		
Brewery/Distillery	1 per 1,000 sf. PLUS 1 per 250 sf. of areas of accessory use for patrons	None
Micro-Brewery/Distillery	1 per 1,000 sf. PLUS 1 per 250 sf. of areas of accessory use for patrons	1 per 2,500 sf.
Restaurant	1 per 200 sf. PLUS 1 per 5 seats for any outdoor seating areas	10% of vehicle parking provided
Catering Service	1 per 500 sf.	None
Winery/Cidery	1 per 1,000 sf. PLUS 1 per 250 sf. of areas of accessory use for patrons	None
Offices		
Offices, General	1 per 500 sf.	10% of vehicle parking provided
Offices, Professional Services		
Parking		
Park and Ride Facility	None	10% of vehicle parking provided
Parking Facility	None	None
Recreational/Entertainment, Indoor		
Casino Gaming Establishment	See Sec. 40.2-208(E)	1 per 2,500 sf.
Commercial Indoor Amusement	See Sec. 40.2-301(E)(8)	1 per 2,500 sf.
Commercial Indoor Sports, Recreation, & Entertainment	See Sec. 40.2-301(E)(8)	1 per 2,500 sf.
Entertainment Establishment	1 per 250 sf.	1 per 2,500 sf.
Shooting Range, Indoor	See Sec. 40.2-301(E)(8)	1 per 2,500 sf.
Recreational Facility, Private	1 per 250 sf.	
Recreational/Entertainment, Outdoor		
Commercial Outdoor Sports, Recreation, & Entertainment	See Sec. 40.2-301(E)(8)	1 per 2,500 sf.
Golf Course	200 sf. of clubhouse, restaurant, and event facilities	1 per 2,500 sf.
Retail Sales and Service		
Business Support Service	1 per 500 sf.	1 per 2,500 sf.
Construction Materials Sales	1 per 500 sf.	1 per 2,500 sf.

Consumer Repair Service	1 per 500 sf.	1 per 2,500 sf.
Convenience Store, with Gasoline Sales	1 per 500 sf.	1 per 2,500 sf.
Crematory	1 per 2 employees	None
Equipment Sales and Rental	1 per 500 sf.	1 per 2,500 sf.
Flea Market	1 per 500 sf.	None
Funeral Home	1 per 5 seats in viewing area	None
Garden Center	1 per 500 sf.	None
Gasoline Sales	2	None
Greenhouse (Principal Use)	None	None
Laboratory	1 per 500 sf.	None
Laundry, Self-Service	1 per 500 sf.	None
Marina, Commercial	1 per every 2 slips PLUS 1 per every 4 dry storage spaces	1 per 2,500 sf.
Marina, Private (Principal Use)		
Personal Services	1 per 500 sf.	1 per 2,500 sf.
Personal Improvement Services	1 per 500 sf.	1 per 2,500 sf.
Retail Sales	1 per 500 sf.	1 per 2,500 sf.
Commercial Sales, Large	1 per 500 sf.	1 per 2,500 sf.
Studio, Fine Arts	1 per 1,000 sf.	1 per 2,500 sf.
Vending Uses	2 per use	None
Vehicle Sales and Service, Light		
Vehicle Sales	1 per 500 sf.	None
Car Wash or Auto Detailing	1 per 2 employees	
Vehicle Parts/Supply, Retail	1 per 500 sf.	
Vehicle Repair and Servicing, Minor	1 per 500 sf.	
Vehicle Repair and Servicing, Major	1 per 500 sf.	
Vehicle Wrecker Service	1 per 500 sf.	
Vehicle Sales and Service, Heavy		
Boat and Marine Rental and Sales	1 per 500 sf.	None
Recreational Vehicle Sales and Service	1 per 500 sf.	
Heavy Equipment Sales and Services	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	
Visitor Accommodations		
Bed and Breakfast Inn	1 per guest bedroom	None
Hotel or Motel	1 per every 2 guest rooms PLUS 25% of spaces required for on-site accessory uses	1 per 20 guest rooms
Hotel or Motel, Full Service		
Hotel or Motel, Extended Stay		
INDUSTRIAL USES		
Industrial Services		

Construction Yard	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Extractive Industry, All Uses		
General Industrial Service		
Laundry, Dry Cleaning, and Carpet Cleaning Facility		
Outdoor Storage (as Principal Use)		
Fuel Oil Storage	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Bulk Fuel Storage and Sales	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Radio and Television Broadcasting Studio	1 per 500 sf.	10% of vehicle parking provided
Research and Development	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Self-service Single-level Storage Facility	5 spaces adjacent to the office/entry	None
Self-service Multi-level Storage Facility	5 spaces adjacent to the office/entry PLUS 1 space per 50 units	5 spaces adjacent to the office/entry PLUS 1 space per 50 units
Truck Stop	1 per 500 sf.	None
Manufacturing and Production		
Manufacturing, Light	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Manufacturing, Heavy		
Industrial, Hazardous		
Urban Agriculture (Principal Use)		
Warehouse and Freight Movement		
Port Facility	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Warehouse		
Shipping Container/Chassis Storage Yard		
Waste and Energy Services		
Construction/Demolition/Debris (CDD) Landfill	Lesser of 1 per 500 sf. OR 1 per 2 employees on largest shift	None
Energy Recovery Plant		
Incinerator		
Recycling Center		
Recycling and Salvage Center		
Salvage and Junkyard		
Shipping Container Storage Yard		
Solar Energy System		
Transfer Station		

Waste Composting	
Wind Energy System	

Table 40.2-301(2) Minimum Parking Requirements for Public and Private Park Activities, sets out the space requirements for public and private park activities as established by this Ordinance.

TABLE 40.2-301(2): MINIMUM PARKING REQUIREMENTS FOR PUBLIC AND PRIVATE PARK ACTIVITIES

USE CATEGORY	AUTO SPACES
Sports fields	20 per field
Tennis and other courts for fewer than 8 players	2 per court
Basketball and other courts for 8 or more players	4 per court
Swimming facilities	25 per pool or sprayground
Golf facilities	2 per tee plus 1 per 200 sf. of clubhouse, restaurant and event facilities
Group picnic shelter	25 per shelter
Individual picnic table	1 per table

- (3) *Exclusions to Parking Requirements.* The following areas shall be excluded from the calculation of parking requirements established in Table 40.2-301(1) Minimum Off-Street Parking Standards.
- (a) Indoor areas used for vehicle storage or display.
 - (b) Outdoor storage, display, or sales areas, unless otherwise specified.
 - (c) Service bays for vehicles, including repair, painting, fueling, washing, and detailing.
 - (d) Animal kennel cage space, indoor and outdoor.
- (4) *Exceptions to Parking Requirements.*
- (a) *Existing Development.*
 - (i) *Change in Use.* Where there is any change of use of an existing development, on-site surface parking shall comply with Sec. 40.2-301(E) Off-Street Parking, except as follows:
 - a. No additional vehicle or bicycle parking spaces are required if the change in use would result in an increase of spaces of less than 25 percent. The percent increase is calculated by dividing the number of additional spaces required by the number of spaces required before the increase.
 - b. When two or fewer additional vehicle or bicycle parking spaces are required under this subsection as a result of a change in use, such additional parking is not required to be installed.
 - (b) *Expansion and Enlargement.* Unless otherwise modified by Article V, the off-street parking, loading, landscaping and circulation standards of this section apply when an existing structure or use is expanded or enlarged, except as follows:
 - (i) No additional vehicle or bicycle parking spaces are required if the expansion or enlargement would result in an increase of spaces of less than 25 percent. The percent increase is calculated by dividing the number of additional spaces required by the number of spaces required before the increase.

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- (ii) When two or fewer additional vehicle or bicycle parking spaces are required under this subsection as a result of an expansion or enlargement, such additional parking is not required to be installed.
 - (iii) When an existing structure or use is expanded or enlarged by 25 percent or more of GFA, on-site surface parking must comply with Sec. 40.2-301(L) Dimensional Standards for Vehicle Parking Spaces and Aisles.
 - (c) Reduction in Required Off-Street Parking.
 - (i) The number of required off-street parking spaces may be reduced to preserve existing trees in accordance with Sec. 40.2-304(B) Landscaping and Screening.
 - (ii) The number of required off-street parking spaces may be reduced as detailed in Sec. 40.2-310(A)(1)(a)(iv) Resilient Site and Building Bonuses.
 - (5) *Nonconforming Parking or Loading Facilities.* Expansion or enlargement of an existing development on a site that does not comply with the standards of this section shall require a Special Exception approval by the Board of Zoning Appeals (BZA).
 - (6) *Multi-Tenant Retail Center Parking Requirements.*
 - (a) Parking requirements for multi-tenant retail centers are calculated based on the gross floor area total for all uses, rather than by individual uses.
 - (b) The minimum required vehicle parking is one space per 500 square feet. The minimum required bicycle parking is one per 2,500 square feet. Loading requirements are per Sec. 40.2-302(D)(1) Number of Required Off-street Loading Berths.
 - (c) Where a retail center also includes residential space, the residential parking requirements shall be additional, per Table 40.2-301(1).
 - (7) *Parking Requirements for Certain Elderly Housing.* Multi-family that is designated as "housing for older persons" by the US Department of Housing and Urban Development under the Fair Housing Act is allowed a 20 percent reduction of the required parking in Table 40.2-301(1) Minimum Off-Street Parking Standards.
 - (8) *Uses with Variable Parking Demand Characteristics.* Uses that reference this subsection in Table 40.2-301(1) Minimum Off-Street Parking Standards, have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard.
 - (a) *Zoning Administrator Decision.* Upon receiving a development application for a use subject to this subsection, the Zoning Administrator shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use.
 - (b) *Parking Demand Study.* Alternatively, an applicant may submit a parking and loading demand study to establish minimum off-street parking standards for approval.
 - (i) Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Zoning Administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use.
 - (ii) Comparability will be determined by density, scale, bulk, area, type of activity, and location.
 - (iii) The study shall document the source of data used to develop the recommendations.
 - (9) *Unlisted Uses.* Upon receiving a development application for a use not expressly listed in this section:

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- (a) *Zoning Administrator Decision.* The Zoning Administrator is authorized to apply the off-street parking standard in the listed use that is deemed most similar to the use, or establish the off-street parking requirements by reference to standard parking resources published by the Institute of Traffic Engineers (ITE).
 - (b) *Parking Demand Study.* Alternatively, the Zoning Administrator may require the applicant to submit a parking and loading demand study that justifies estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.
- (F) *Off-Street Parking Alternatives.* The Zoning Administrator shall be authorized to approve, approve with conditions, or deny an Alternative Parking Plan that proposes alternatives to providing the number of required off-street parking spaces required by Table 40.2-301(1) Minimum Off-Street Parking Standards in accordance with the standards listed below. The Alternative Parking Plan shall be submitted as appropriate. Nothing in this subsection shall limit the utilization of one or more of the following off-street parking alternatives by a single use.
- (1) *Parking Demand Study.* In cases where development conditions require a deviation from the parking standards in Table 40.2-301(1), an applicant may submit an Alternative Parking Plan that includes a parking demand study for review and approval, approval with conditions, or denial by the Zoning Administrator. The Alternative Parking Plan shall:
 - (a) Justify estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Zoning Administrator;
 - (b) Include relevant and reliable data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location; and
 - (c) Document the source of data used to develop the recommendations.
 - (2) *Shared Parking.* Shared parking is feasible when the same parking spaces can be used to serve two or more individual lands uses without conflict or encroachment.
 - (a) *Shared Parking Standards.* Requests for shared parking shall comply with all of the following standards:
 - (i) Shared parking spaces shall be located within 800 linear feet of the building served.
 - (ii) Shared parking spaces shall not be separated from the use they serve by an arterial or collector road unless the shared parking area or parking structure is served by an improved pedestrian crossing.
 - (iii) Adequate and safe pedestrian access must be provided from and to the shared parking areas.
 - (iv) The maximum reduction in the total number of parking spaces required for the uses sharing the parking area shall be 50 percent of the total required parking for each individual use.
 - (v) Directional signage that complies with the standards of this Ordinance shall be provided to direct the public to the shared parking spaces. It is preferable for the employees of an establishment to utilize these spaces.
 - (b) *Shared Parking Plan.*

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- (i) Those requesting to use shared parking as a means of satisfying the off-street parking standards must submit a shared parking plan as part of an Alternative Parking Plan that justifies the feasibility of shared parking.
 - (ii) The shared parking plan shall include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
 - (iii) A written agreement is required among all owners of record who are party to the shared parking.
 - (iv) The shared parking plan portion of an Alternative Parking Plan shall be enforced through the written agreement among all owners of record.
 - (v) A shared parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of Table 40.2-301(1), Minimum Off-Street Parking Standards.
- (3) *Off-Site Parking.* Requests to locate required off-street parking spaces on a separate lot from the lot on which principal uses are located, shall comply with all of the following standards.
- (a) *Off-Site Parking Standards.*
 - (i) The off-site parking shall not be used to satisfy the off-street parking standards for residential uses (except for guest parking), convenience stores, or other convenience-oriented uses.
 - (ii) Required parking spaces reserved for persons with disabilities may not be located off-site.
 - (iii) No off-site parking space shall be located more than 800 feet from the principal entrance of the use served (measured along the shortest legal pedestrian route) unless a remote parking shuttle bus service is provided.
 - (iv) Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway is provided or other traffic control or a remote parking shuttle bus service is provided.
 - (v) The zoning district classification of the off-site parking area is the same or a more intensive zoning classification than that required for the use served.
 - (b) *Off-Site Parking Plan.*
 - (i) Those requesting to use off-site parking as a means of satisfying the off-street parking standards must submit an off-site parking plan as part of an Alternative Parking Plan that justifies the feasibility of off-site parking.
 - (ii) In the event that an off-site parking area is not under the same ownership as the principal use served, the off-site parking arrangement shall be established in a written agreement between the record owners.
 - (iii) An off-site parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record.
- (4) *On-Street Parking.* As approved by the City Engineer, the use of on-street parking to meet up to 50 percent of the minimum off-street parking requirements shall comply with the following standards.
- (a) *On-Street Parking Standards.*

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- (i) Adequate on-street parking exists within 800 linear feet from the principal entrance of the proposed development;
 - (ii) The developer plans on utilizing on-street parking; and
 - (iii) There is no negative impact to existing or planned traffic circulation patterns or on-street parking demand.
 - (b) *On-Street Parking Plan.* Those requesting to use on-street parking as a means of satisfying the off-street parking standards must submit an on-street parking plan as part of an Alternative Parking Plan that justifies the feasibility on-street parking.
- (5) *Valet Parking.* Valet parking may be submitted to the Zoning Administrative to meet a portion of the minimum number of parking spaces required for a development. Valet parking, if provided, shall comply with the following standards.
- (a) *Valet Parking Standards.*
 - (i) Except for restaurants and hotels, no more than 35 percent of the total number of required parking spaces shall be designated for valet parking;
 - (ii) For restaurants and hotels, no more than 50 percent of total number of required parking spaces shall be designated for valet parking.
 - (iii) The development shall provide a designated drop-off and pick-up area that is:
 - a. Not to be located in a fire lane or where its use would impede vehicular and/or pedestrian circulation;
 - b. Not to be located in an area that would result in queuing in a public street or an internal drive aisle serving the development.
 - (b) *Valet Parking Plan.*
 - (i) Those requesting to use valet parking as a means of satisfying the off-street parking standards must submit a valet parking plan as part of an Alternative Parking Plan that justifies the feasibility of valet parking.
 - (ii) Justification shall include information on where the valeted vehicles will be parked, pickup and drop-off location, and number of required parking spaces that will be met with valet parking.
- (H) *Special Exception Parking Modification.* The BZA may grant a Special Exception for a modification to the number, form, or nature of the parking requirements contained in Sec. 40.2-301 (Off-Street Parking, Loading, and Circulation) of this Ordinance, provided:
- (a) The applicant shall demonstrate that safe and convenient pedestrian access is provided from the designated use to an off-site parking facility or that transportation is available from an off-site parking facility to the premises;
 - (b) The applicant shall demonstrate that off-site parking spaces to either supplement the on-site parking or meet the minimum parking requirement, or a combination of both, are available on a long-term basis of not less than 20 years;
 - (c) A parking modification which was granted based on an off-site parking plan shall be void in the event that said off-site parking plan is terminated in whole or in part;
 - (d) The applicant shall provide an adequate amount of parking to accommodate the anticipated demand for parking generated by the specified use;

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- (e) The authorization of parking modifications shall be limited to the specified use or uses for which the Special Exception is requested. Any enlargement of a building or change in use or uses shall be subject to the parking requirement as specified in this Ordinance or as otherwise approved for increase or reduction as provided in this Ordinance; and
 - (f) The applicant has demonstrated to the satisfaction of the City Engineer that any off-site or on-street parking requested would not have a negative impact on the surrounding neighborhood or to any existing or proposed parking program or parking district impacted by the request.
- (G) *Off-Street Parking within Residential Districts.*
- (1) *Parking in Vehicular Use Area Required.*
 - (a) Commercial vehicles, whether parked or stored, shall be located in a vehicular use area.
 - (b) For the purposes of this subsection, "vehicles" shall include but not be limited to, passenger vehicles, all trucks under 20,000 pounds of gross vehicle weight (GVW), vans, golf carts, or other similar vehicles, whether operable or otherwise. Vehicles exceeding 20,000 pounds GVW are subject to the standards in Sec. 40.2-217(1)(3)(m) Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Home.
 - (2) *Maximum Area Available for Vehicular Use.*
 - (a) Vehicular use areas located within the front or corner side yard (as measured from the edge of the lot line to the closest portion of the building) shall be limited to the lesser of 33 percent of the entire front and/or corner side yard area, or 880 square feet.
 - (b) For parcels with lot widths less than 50 feet, the vehicular use area shall be limited to the lesser of 50 percent of the entire front/or corner side area yard area (as measured from the edge of the lot line to the closest portion of the building), or 500 square feet.
 - (c) Nothing in this subsection shall be construed to limit the size of the vehicular use area located beyond the setback line of a front or corner side yard area, nor does it apply to indoor parking.
 - (d) This is not applicable to historic districts or any other district that has specific or special parking provisions.
 - (3) *Historic Residential (HR) District.* Off-street parking in the front yards is prohibited except as normally exists in driveways.
- (H) *Curbside Pickup Parking Requirements.*
- (1) Curbside pickup refers to the pickup of goods from retail establishments and restaurants by customers and third parties.
 - (2) Curbside pickup areas, if provided, shall comply with the following standards:
 - (a) All curbside pickup spaces shall be delineated by appropriate signage as well as striping and labeling of the pavement.
 - (b) Emergency access ways and fire lanes shall be maintained in an unobstructed and fully accessible condition at all times.
 - (c) Fire lanes shall not be used for curbside pickup.
 - (d) Curbside pickup areas shall not take priority over handicap accessible parking spaces and shall not be located closer to the accessible entrance of the building or buildings containing the use than the handicap accessible spaces.
 - (e) Curbside pickup shall take place on improved, paved areas.

- (f) Curbside pickup areas shall be designed so that vehicles using or waiting to use the curbside pickup areas do not obstruct pedestrian and handicap movement within the parking areas, access aisles, and drive aisles.
 - (g) Each curbside pickup space shall have adequate, unobstructed means for the ingress and egress of vehicles.
 - (h) Curbside pickup spaces shall be configured to avoid the need for vehicles to back up within the street right-of-way.
- (I) *Motorcycle Parking.*
- (1) Parking for motorcycles, mopeds and motor-driven cycles may substitute for up to two spaces, or five percent of required vehicle parking, whichever is greater.
 - (2) Motorcycle parking spaces shall be a minimum of four feet wide and eight feet deep, accessible by an aisle at least five feet wide.
- (J) *Low-Emission Vehicles.*
- (1) Spaces within parking lots and structures may include designated parking spaces for battery-electric vehicles, hybrid vehicles, and fuel cell vehicles.
 - (2) Spaces reserved for low-emission vehicles count towards minimum parking space requirements.
- (K) *Electric Vehicle Changing Stations Provisions.*
- (1) Spaces within parking lots and structures may include designated parking spaces for electric vehicle charging.
 - (2) Spaces reserved for electric vehicle charging count towards minimum parking space requirements.
 - (3) Spaces Available for Public Use.
 - (a) Where electric vehicle charging stations are available for public use, spaces reserved for electric vehicle charging count towards minimum parking space requirements at the rate of two per each space reserved for electric vehicle charging.
 - (b) To be considered "available for public use," spaces reserved for electric vehicle charging shall be available and accessible to the public during all hours that the parking facility is open.
- (L) *Accessible Parking Spaces for Physically Disabled Persons.* Development required to provide off-street parking spaces shall ensure that a portion of the total number of required off-street parking spaces shall be specifically dimensioned, designated, located, and reserved for use by persons with physical disabilities, in accordance with the standards in the federal Americans with Disabilities Act (ADA).
- (M) *Dimensional Standards for Vehicle Parking Spaces and Aisles.*
- (1) *Minimum Dimensional Standards.* Car parking spaces and parking lot aisles shall comply with the minimum dimensional standards established in Table 40.2-301(3) Dimensional Standards for Vehicle Parking Spaces and Aisles. The following dimensional standards apply to vehicle parking spaces other than those provided per Sec. 40.2-301(K):

Table 40.2-301(3): DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

PARKING ANGLE (A)	STALL WIDTH (B)	CURB WIDTH (C)	AISLE WIDTH FOR ONE-WAY TRAFFIC (D)	AISLE WIDTH FOR TWO-WAY TRAFFIC (E)	STALL DEPTH PERPENDICULAR TO AISLE (F)

STANDARD SPACES					
Parallel (ft.)	8	22	12	24	8
45 degrees (ft.)	9	12.7	16	n/a	19
60 degrees (ft.)	9	10.4	18	24	20
90 degrees (ft.)	9	9	N/A	24	18
COMPACT SPACES					
Parallel (ft.)	8	20	12	24	8
45 degrees (ft.)	8	11.3	16	24	18
60 degrees (ft.)	8	9.3	18	24	19
90 degrees (ft.)	8	8	N/A	24	17

- (2) *Compact Spaces.* Up to 25 percent of all spaces may be reduced to compact spaces. All compact spaces must be clearly marked for "Compact Cars Only."
- (3) *Vehicle Clearance.* All off-street parking spaces must have a minimum overhead clearance of seven feet.
- (4) *Vehicle Overhang.* When a parking space abuts a public right-of-way, sidewalk, walkway, landscape area, or adjacent property, off-street parking and loading areas shall provide curbs, motor vehicle stops, or similar devices at a minimum distance of two feet as to prevent vehicles from overhanging.
- (5) *Spaces Near Obstructions.*
 - (a) When the side of a parking space abuts a wall, column, or other structure that is taller than six inches, the width of the parking spaces shall be increased by two feet on the obstructed side. This does not apply to columns in a parking garage.
 - (b) Columns, poles, bollards or similar, positioned at the front of a parking space, may protrude up to six inches into the required parking stall dimensions.
 - (c) Columns, poles, bollards or similar, positioned at the front corner of a parking space, may protrude up to 12 inches along the front or side of the required parking stall dimensions.
- (6) *Tandem Parking.* Tandem parking is allowed for residential projects, including the residential component of mixed-use projects, when both tandem spaces are assigned to the same dwelling unit. Up to 75 percent of the total off-street parking spaces provided for residential projects may incorporate tandem parking.

(Ord. No. 2021-46 , § 1(Exh. A), 6-22-2021; Ord. No. 2021-94 , § 1(Exh. A), 10-12-2021)

Sec. 40.2-303. Bicycle Parking.

- (A) *Bicycle Parking.* Bicycle parking is intended to primarily serve visitors, whose bicycles will be left for short stops, requiring a high degree of convenience.

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- (1) The required amount of bicycle parking is shown in Table 40.2-301(1) Minimum Off-Street Parking and Bike Parking Standards.
 - (2) No bicycle parking is for any residential development in the Downtown (D1) district and for any commercial facility of less than 1,000 square feet.
 - (3) For multi-family residential uses, long-term bicycle spaces and short-term bicycle spaces are required.
 - (a) Long-term bicycle parking spaces are intended to primarily serve residents and employees whose bicycles will be left for longer periods of time and require a safe and weatherproof storage area.
 - (b) Long-term bicycle parking shall be located in an enclosed, limited access area designed to protect bikes from precipitation and theft.
 - (c) Short-term bicycle parking spaces are intended to primarily serve visitors, such as retail patrons, whose bicycles will be left for short stops, requiring a high degree of convenience.
 - (d) Individual garages shall account for one long-term bicycle space.
 - (4) All provided bicycle parking shall comply with the following standards:
 - (a) Bicycle parking shall be located as close as the closest vehicular parking space or within 50 feet of a publicly accessible entrance to the building or buildings containing the use or uses it serves, whichever is greater.
 - (b) Bicyclists shall not be required to travel over stairs to access parking.
 - (c) Access routes to bicycle parking areas must have a minimum five foot width, with an allowable constriction of no less than three feet for distances totaling no more than five feet.
 - (d) Access and egress for bicycle parking in a parking structure shall not be via gated or ramped entrance/exit lane shared with motor vehicles.
 - (e) Bicycle parking racks should be designed with at least two contact points for bicycle placement.

Sec. 40.2-545. Traffic Impact Analysis (TIA).

- (A) *Applicability.* The provisions of this section shall apply to all new development as follows:
- (1) Any residential, commercial, industrial use, or combination thereof, where the anticipated average weekday 24-hour traffic generation, using the Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.
 - (2) Any development or subdivision of a portion of property where the potential average weekday 24-hour traffic generation, using the Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) for the developable portion of the entire property based on permitted uses under existing zoning equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends, regardless whether the remainder of the property is currently proposed for development unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.
 - (3) Any Amendment of the Zoning Map or Use Permit applications, other than those requests initiated by the Planning Commission or City Council, where the anticipated average weekday 24-hour traffic

generation, using the Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous-studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

- (4) Any nonresidential development which proposes to access a street which is residential in character and classified as a minor collector or lower order street.
- (5) Any other development proposal that, as determined by the City Engineer, has a significant potential to cause or aggravate traffic safety or congestion problems and, as such, would benefit from a professional review of proposed access and circulation designs.

(B) *Traffic Impact Analysis Standards and Requirements.*

- (1) For any development described in subsection (A) above, a traffic impact analysis, prepared by a licensed professional engineer, shall be submitted for review and consideration by the City.
- (2) Subdivision Plats, Site Plans, Amendments to the Zoning Map, Use Permit applications, and other development proposals for which a traffic impact analysis is required shall not be deemed to be complete until the traffic impact analysis is submitted. The Engineering Department will provide available technical information. The applicant must collect traffic data that is not already available or is outdated.
- (3) The submitted TIA shall, unless otherwise approved by the City Engineer in writing, contain the following information and analysis:
 - (a) Existing conditions summary including 24-hour volumes, peak periods and peak volumes on adjacent roadways, peak periods and peak volumes of the generator, and peak hour factor(s); roadway geometrics; grades; lateral clearance; heavy vehicles, pedestrian, bicycle, and recreational vehicle percentages; existing lane configurations; traffic control devices and timing plans if signals are present and level of service analysis based on the most current version of the Highway Capacity Manual.
 - (b) Future conditions summary, including the horizon (analysis) year(s) and the criteria used in its selection, committed future roadway improvements, traffic growth factors combined with forecasts for adjacent sites to determine future background traffic (both 24-hour and peak period), and level of service analysis, compared with existing conditions.
 - (c) Trip generation and design hour volumes-including traffic forecast for site development to include 24-hour and peak hour volumes both for the traffic generator itself and on adjacent roadways. Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition, or as it may from time to time be amended) rates or equations shall be used unless verifiable local data is available. Any assumptions or adjustments shall be fully documented and, where appropriate, justified with source references provided.
 - (d) Trip distribution and traffic assignment, including a directional distribution of site traffic to its area of influence based on primary market, analogy, origin-destination, gravity model, or other similar methods. Each step in the process shall be fully and carefully documented.
 - (e) Design year total volumes developed for both 24-hour and for the peak periods of the generator and on adjacent roadways.
 - (f) Capacity analysis-including intersection and lane capacity based on the 2000 Highway Capacity Manual as it may from time to time be amended and revised.

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- (g) Where intersections (both signalized and unsignalized) are spaced in such proximity or the volumes are such that the intersection does not operate independently, appropriate progression and queuing analyses performed using a recognized methodology or analysis or simulation package must accompany the capacity analyses.
 - (h) Capacity analyses shall be prepared for each potential access design scenario. Any assumptions and adjustments to the default values in the 2000 Highway Capacity Manual (most up to date version) shall be fully documented and justified. These include, but are not limited to, peak hour factor, average running speeds, and cycle lengths, especially very short or long cycles. All worksheets shall be submitted.
 - (i) The distribution and frequency of traffic accidents shall be analyzed and a determination made as to whether any safety deficiencies exist or will be caused or exacerbated. This shall specifically include a safety analysis of all proposed street extensions.
 - (j) The recommended roadway and traffic network improvements based on the design hour in the design year shall be shown on a scaled plan sheet with appropriate narrative. Such improvements shall be designed to yield a minimum level of service of "C" as defined by the 2000 Highway Capacity Manual as it may from time to time be amended, supplemented, or revised. Where the existing conditions provide a current level of service of less than "C," the improvements shall be designed to at least maintain the current volume to capacity ratio as determined by the methods contained in the 2000 Highway Capacity Manual without further degradation through the design year plus two years. A detailed construction cost estimate of the required improvements shall be provided.
 - (k) Including the number and width of driveway lanes, the appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycle facilities, and any other facilities or accommodations and any other factor which could impact traffic operations along the adjacent roadways or overall traffic safety, both internal and external.
 - (l) The internal circulation system shall be designed to preclude stacking or queuing in the travel lanes of adjacent roadways during the peak hours of the traffic generator.
 - (m) Including all conclusions of the analyst applicable to the site, particularly with respect to the appropriate timing and phasing of improvements.
 - (n) Timing and phasing must be clearly tied to identifiable stages of development or specific time frames.
 - (o) Conclusions about the relative safety of the post-development situation shall also be included.
 - (p) An executive summary containing key findings and recommended actions.
- (4) All intersections, commercial entrances, median breaks, pavement markings, driveways, or other roadway features potentially affecting traffic flow located within 500 feet of the proposed development as well as all intersections and driveways internal to the development shall be considered and either shown or clearly noted on a scaled plan submitted with the traffic impact analysis.

Sec. 22-12. Parades, public assemblies and expressive activities; permits.

- (a) *Purpose.* Pursuant to the authority granted to the city by the Code of Virginia and the city charter, this section is adopted in order to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, to ensure free and safe access to public areas, and otherwise to regulate and control the time, place and manner of activities that would otherwise threaten the public health, safety, and welfare, while also encouraging the exercise of rights under the First Amendment of the United States Constitution (First Amendment) in the city.
- (b) *Definitions.* The following terms shall have the meanings set out herein, unless the context in which they occur clearly indicates otherwise:
- (1) City-sponsored event means a planned event which the city sponsors or is otherwise affiliated with for the primary purpose of providing recreational benefits for citizens and not for the purpose of providing a forum for expressive activities. City-sponsored events include the Memorial Day Parade, Bunny Hop Race, Portsmouth Farmer's Market, Seawall Art Show, Safe Trick or Treat, Fish Bowl Parade, Olde Towne Ghost Walk, Buffalo Rider Parade of Horses, and any other event which is designated as a city-sponsored event by the city manager.
 - (2) Event means a parade, public assembly or expressive activity.
 - (3) Expressive activity means any activity protected under the First Amendment other than a parade or public assembly, addressed below, including, but not limited to, leafleting.
 - (4) Parade means any march, demonstration, procession or motorcade consisting of persons, animals, or vehicles, or a combination thereof, upon any traditional public forum within the city that interferes with or is likely to interfere with the normal flow or regulation of pedestrian or vehicular traffic within said forum.
 - (5) Public assembly means any meeting, demonstration, picket line, rally or gathering of any kind that occupies any traditional public forum within the city and interferes with or is likely to interfere with the normal flow or regulation of pedestrian or vehicular traffic or with the customary public usage of said forum.
 - (6) Spontaneous event means an unplanned coming together of persons, animals or vehicles in a parade or public assembly in a traditional public forum which was not contemplated beforehand by any participant therein, and which is caused by or in response to unforeseen circumstances or events.
 - (7) Traditional public forum means, pursuant to the public forum doctrine under the First Amendment, as created and revised by the courts, those government-owned spaces open to the public generally, such as many streets, sidewalks and parks, that have by long tradition and government fiat been devoted to parades, public assemblies and expressive activities generally.
- (c) *Permit required.*
- (1) It shall be unlawful for any person to conduct or participate in a parade, public assembly or expressive activity in any traditional public forum of the city without a written permit issued in accordance with the provisions of this section.
 - (2) The provisions of this section shall not apply to the following when occurring in a traditional public forum:
 - a. Spontaneous events;

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- b. Recreational activities, including jogging or walking, that do not require closing public streets or other public rights-of-way;
 - c. Footraces and bicycle races are not subject to this section 22-12 but are subject to section 22-12.1.
 - d. Funeral processions of vehicles with appropriate lights and/or escorts;
 - e. 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;
 - f. The United States Army, Navy, Air Force and Coast Guard, the military forces of the state, and the employees of the city when acting within the scope of their employment; or
 - g. A governmental agency or agencies acting within the scope of its functions.
 - h. A parade, public assembly or expressive activity conducted in some traditional public forum other than a street and involving less than thirty (30) people.
- (3) 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.
- (d) *Application.*
- (1) A written application for a permit shall be filed as follows:
- a. When a parade, public assembly or expressive activity will require the blocking or temporary closure of all or any part of one or more major streets of the city, or one or more streets in the downtown area, and the detouring of motor vehicle traffic, and will require the presence of significantly more police officers than are normally assigned to the area for traffic control, traffic diversion and/or the maintenance of order, a written application for the permit shall be filed with the city manager or city manager designee at least thirty (30) calendar days prior to the occurrence, and shall include the information described under subsection (d)(1)(C) below. The reasons for this time requirement are that additional time is needed by city officials to coordinate with all involved departments; to determine previously scheduled uses of the areas or streets; to determine the need and arrange for traffic control signages and devices; to notify residents and businesses; to arrange for the rescheduling and/or recall of police officers; and to alter existing parking regulations. Applicants should allow additional time for correction of any deficiencies and first time events.
 - b. For all parades, public assemblies or expressive activities other than those described in subsection (d)(1)(A) above, a written application for the permit shall be filed with the city manager or city manager designee at least ten business (10) days, excluding legal holidays, prior to the occurrence, and shall include the information described in subsection (d)(1)(C) below. Applicants should allow additional time for correction of any deficiencies and first time events.
 - c. Written applications shall include all of the following information:
 - (i) The name, address and telephone number of the person requesting the permit;
 - (ii) The name and address of the organization or group the applicant is representing;
 - (iii) The name, address and telephone number of a person who will act as the leader or chairman of the group at the site, and who will be responsible for the conduct of the group;
 - (iv) The type of event planned, including a description of the activities planned during the event;
 - (v) The date and time (start and ending) of the event;

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- (vi) If the event is a public assembly or expressive activity, the specific location or locations of it;
 - (vii) If the event is a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;
 - (viii) The approximate number of people, animals and vehicles that will constitute the event, and a description of any animals or vehicles involved;
 - (ix) A statement as to whether the event 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;
 - (x) A description of any recording equipment, sound-amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the event; and
 - (xi) A statement, if applicable, that the applicant claims an exemption from the service fee and insurance requirements of subsection (e) below, and such other information as the city manager or city manager 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.

(e) *Fees and insurance.*

- (1) All applicants shall pay a nonrefundable fee to cover the administrative costs of processing the permit request upon submission of their application.
- (2) If the application is pursuant to subsection (d)(1)(A) above, and the application is not exempt from these fees pursuant to subsection (e)(4) below, the applicant, prior to the issuance of a permit, shall:
 - a. Pay the charges for all services to be provided the applicant in accordance with a schedule of service costs established by regulations of the city manager; and
 - b. Procure and maintain in full force and effect during the term of the permit a policy of insurance covering general liability and property damage in an amount commensurate with the risk as determined by the city manager or city manager designee, which policy shall include the city, its boards, officers, agents and employees as additional insureds.
- (3) No application shall be considered complete until all required fees are paid.
- (4) Applicants may request an exemption from the service fees and insurance requirements of this section for noncommercial parades, public assemblies and expressive activities subject to the protection of the First Amendment. Within five (5) days, excluding Saturdays, Sundays and legal holidays, after receiving a permit request claiming an exemption from the service fees and insurance requirements pursuant to this subsection, the city manager or city manager designee shall notify the applicant if his claim of exemption is denied. The city manager or city manager designee shall grant or deny a claim of exemption under this section with the advice and consent of the city attorney.
- (5) City-sponsored events are exempt from the requirements of this subsection (e).

(f) *Issuance or denial of permit.*

- (1) The city manager or city manager designee, upon receipt of an application, shall promptly circulate it to the chief of police, the fire chief, the director of parks, recreation and leisure services if the proposed location is a park, city engineer and the director of public works, or their designees, and to any other city departments with relevant responsibilities.
- (2) The city manager or city manager designee shall issue the permit within fifteen (15) business days after receipt of the completed application for a parade, public assembly or expressive activity described in subsection (d)(1)(A) above, and within five (5) business days after receipt of an application for a

parade, public assembly or expressive activity described in subsection (d)(1)(B) above, if it is determined that the proposed parade, public assembly or expressive activity will not endanger the public health, welfare or safety, based upon its meeting all of the following requirements:

- a. The time, duration, route and size of the event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic;
 - b. The time, duration, route and size of the event will not require the 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;
 - c. The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the event in conformity with such permit;
 - d. The conduct of the event 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;
 - e. The event will not interfere with another event for which a permit has been granted;
 - f. The event proposed will not violate, and will conform with all applicable regulations and laws governing the activities of the proposed event; and
 - g. The applicant has, unless exempted, met all requirements concerning fees and insurance, including any unpaid balance of fees owed by applicant from a prior permitted event and any liability incurred by the city as a direct and proximate result of applicant's failure to obtain and maintain the insurance required hereunder for any prior permitted event.
- (3) The city manager or city manager designee shall not issue the permit if any information supplied by the applicant is false or intentionally misleading.
 - (4) The city manager or city manager designee shall have the authority to and shall make reasonable efforts to consider an application hereunder which is not filed within the applicable deadlines before the proposed date of the parade, public assembly or expressive activity. The city manager or city manager designee shall waive the deadline if, after due consideration of the date, time, place and nature of the event, the anticipated number of participants and the city services required in connection with the event, and where good cause is otherwise shown, the city manager or city manager designee determines that the waiver of the permit application deadline will not present an undue hazard to public safety.
 - (5) If the city manager or city manager designee denies an application, she shall promptly attempt to call and will promptly mail and/or email to the applicant a notice of her action, stating the reasons for her denial of the permit.
 - (6) If two (2) or more applications are submitted requesting a permit under this section for a parade, public assembly or expressive activity to be used at the same date, time and place, the application first filed shall be granted if it meets the requirements of this section.
 - (7) Nothing in this section shall permit the city manager or city manager designee to deny a permit or waive a required fee 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.
 - (8) The issuance of a permit under this section shall not excuse the applicant from any other license, inspection or permit requirements that may be otherwise necessary for the proposed event, such as business licenses, right of way occupancy permits, land use permits, special event license, electrical permits, building permits and health permits.

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- (g) *Alternative permit.* The city manager or city manager designee shall have the authority to modify the route, time and place of a parade, public assembly or expressive activity to facilitate crowd control in the interest of relieving congestion and promoting public safety, provided that the applicant's rights under the First Amendment are not denied thereby. The city manager or city manager designee may temporarily close any street in the city affected by a parade when in her judgment the public safety so requires.
- (h) *Notice to various officials.* Immediately upon the issuance of a permit under this section, the city manager or city manager designee shall send a copy thereof to the following:
- (1) The chief of police;
 - (2) The fire chief;
 - (3) The city engineer;
 - (4) The director of public works; and
 - (5) The director of parks, recreation and leisure services if the location is a park.
- (i) *Compliance with directions and standards.* Every person to whom a permit is issued under this section shall comply with all permit terms and conditions and with all applicable regulations and laws. The parade, public assembly or expressive activity applicant or other person heading or leading the event shall carry the permit upon his person during the conduct of the event, and show the permit when requested to do so.
- (j) *Revocation of permit.* The city manager or city manager designee shall have the authority to revoke any permit issued pursuant to this section if any information supplied by the applicant is discovered to be false or intentionally misleading, or 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.
- (k) *Public conduct during events.*
- (1) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade, public assembly or expressive activity or with any person, vehicle or animal participating or used in such an event.
 - (2) *Driving through parades.* No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
 - (3) *Parking on parade route or the area of a public assembly or expressive activity.* The city manager or city manager 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 parade or an area in which a public assembly or expressive activity will occur. The city manager or her designee, shall post signs 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 section.
- (l) *Parades in street; relocation of parades from the street to the sidewalk.*
- (1) Parades consisting of thirty (30) or fewer people and no vehicles shall be confined to the sidewalks and shall not enter the street except for the purpose of crossing from one sidewalk to another.
 - (2) Parades for which a permit to parade in the street has been issued shall be converted to sidewalk parades on the order of the police officer in charge at the scene if, at the time designated for the start of the parade in the permit, the officer in charge determines:
 - a. There are no vehicles prepared to participate in the parade; and

- b. There are thirty (30) or fewer people prepared to participate in the parade.
- (3) Every person to whom a parade permit is issued and all participants therein shall obey the instructions converting a street parade to a sidewalk parade if the police officer in charge at the scene directs as though those were the terms and conditions of the original written permit.
- (m) *Nonpublic forums.* Parades, public assemblies and expressive activities are prohibited in nonpublic forums because they are not compatible with the purpose, facts and circumstances of such properties. However, by special written permit the city manager or city manager designee may allow such an event in a nonpublic forum when under all the facts and circumstances it is determined that the specific event and the specific nonpublic forum are not incompatible. Decisions concerning requests for access to nonpublic forums by special written permit shall be made only with the advice and consent of the city attorney to ensure any denials or restrictions are viewpoint neutral and otherwise consistent with the public forum doctrine under the First Amendment of the United States Constitution, as created and revised by the courts.
- (n) *Severability.* If any portion of this section is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this section, and such invalid provisions or portions thereof shall be severable.
- (o) *Penalty.* Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor. (Code 1973, § 23-15; Code 1988, § 22-19; Ord. No. 1992-35, § 1, 5-12-1992; Ord. No. 2013-01, § 1, 1-8-2013; Ord. No. 2017-14, § 1, 3-14-2017; Ord. No. 2018-64, § 1(Exh. A), 7-24-2018)

Editor's note(s)—Ord. No. 2018-64, § 1(Exh. A), adopted July 24, 2018, renamed § 22-12 from "permits for parades and other special events" to "parades, public assemblies and expressive activities; permits."

Sec. 40.2-208. Overlay Zoning Districts.

(A) *General.*

- (1) *Purpose.* Overlay zoning districts are superimposed over portions of one or more underlying zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address special area-specific conditions, features, or plans while maintaining the character and purposes of the underlying zoning district.
- (2) *Establishment of Overlay Zoning Districts.* Table 40.2-208 Overlay Zoning Districts Established, sets out the overlay zoning districts established by this Ordinance. Except where specifically provided, Variances from the overlay zoning district standards shall not be granted.

TABLE 40.2-208: OVERLAY ZONING DISTRICTS ESTABLISHED

DISTRICT ABBREVIATION	OVERLAY DISTRICT NAME
MP	Master-Planned Overlay
DD	Downtown Design Overlay
I	Innovation Overlay
E	Entertainment Overlay
CBPA	Chesapeake Bay Preservation Area Overlay
FP	Floodplain Overlay

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- (3) *Classification of Overlay Zoning Districts.* Land shall be classified or reclassified into an overlay district only in accordance with the procedures and requirements set forth in Sec. 40.2-532 Zoning Text and Zoning Map Amendments.
- (4) *Relationship to Other Zoning Districts.*
- (a) Regulations governing development in an overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise in these regulations.
 - (b) If the standards governing an overlay district expressly conflict with those governing a base zoning district, the standards governing the overlay district shall control, unless expressly stated otherwise in the overlay district regulations.
 - (c) Where land is classified into multiple overlay districts and the standards governing one overlay district expressly conflict with those governing another overlay district, the more restrictive standard shall apply.
- (B) *Master-Planned (MP) Overlay District.*
- (1) *Purpose.*
 - (a) The Master-Planned (MP) Overlay District is intended to provide an opportunity for the establishment of new development that departs from the range of dimensional and development standards typically applied to development in the City, subject to an approved master plan.
 - (b) The minimum quality of development in the MP overlay district is anticipated to exceed the level that would otherwise result from the strict application of the typical range of dimensional and development standards.
 - (2) *Applicability.* The MP overlay district is available for application to lands of two acres in size or greater.
 - (3) *Procedure.* The MP overlay district is established in accordance with the procedure and requirements for an amendment to the Zoning Map in accordance with Sec. 40.2-532 Zoning Text and Zoning Map Amendments, and the standards in this section.
 - (4) *Standards.* Before approving a MP overlay zoning district classification, the City Council shall find that the application for the MP overlay zoning district classification, as well as the master plan and the terms and conditions included as part of the application, comply with the following standards:
 - (a) *MP Overlay Master Plan.* The MP overlay master plan shall:
 - (i) Include a statement of planning objectives for the district;
 - (ii) Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;
 - (iii) Identify for the entire MP overlay district and each development area the acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity;
 - (iv) Identify the general location, amount, and type (whether designated for active or passive recreation) of open space set-asides;
 - (v) Identify the location of environmentally sensitive lands, wildlife habitat, and stream corridors;
 - (vi) Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit corridors, and pedestrian and bicycle pathways, and how they will connect with existing and planned city systems;

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- (vii) Identify the general location of on-site potable water and wastewater facilities, and how they will connect to city systems;
 - (viii) Identify the general location of on-site stormwater management facilities, and how they will connect to city systems; and
 - (ix) Identify the general location of all other on-site public facilities serving the development, including, but not limited to, parks, schools, and facilities for fire protection, police protection, EMS, stormwater management, and solid waste management.
- (b) *Terms and Conditions Statement.* The terms and conditions statement shall incorporate by reference or include, but not be limited to:
- (i) Conditions related to approval of the application for the MP overlay zoning district classification;
 - (ii) The MP overlay master plan, including any density/intensity standards, dimensional standards, and development standards established in the MP overlay master plan;
 - (iii) Conditions related to the approval of the MP overlay master plan, including any conditions related to the form and design of development shown in the MP overlay master plan;
 - (iv) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;
 - (v) Provisions related to environmental protection and monitoring; and
 - (vi) Any other provisions the City Council determines are relevant and necessary to the development of the MP overlay in accordance with applicable standards and regulations.
- (c) *Consistency with City Plans.* The MP overlay zoning district designation, the MP overlay master plan, and the terms and conditions statement shall be consistent with the comprehensive plan and any applicable small area plans adopted by the city.
- (d) *Development Phasing Plan.* If development in the MP overlay district is proposed to be phased, the MP overlay master plan shall include a development phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space set-asides will be provided and timed, and how development will be coordinated with the city's capital improvements program.
- (e) *Conversion Schedule.*
- (i) The MP overlay master plan may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use and one type of nonresidential use may be converted to another type of nonresidential use (i.e., residential to residential, or nonresidential to nonresidential).
 - (ii) These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with the conversion schedule.
- (f) *On-Site Public Facilities.*
- (i) *Design and Construction.* The MP overlay master plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable city, state, and federal regulations.

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- (ii) *Dedication.* The MP overlay master plan shall establish the responsibility of the developer/landowner to dedicate to the public the rights-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable city, state, and federal regulations.
 - (iii) *Modifications to Street Standards.* In approving a MP overlay master plan, the City Council may approve modifications or reductions of public street design standards—including those for right-of-way widths, pavement widths, required materials, and turning radii—on finding that:
 - a. The MP overlay master plan provides for separation of vehicular, pedestrian, and bicycle traffic;
 - b. Access for emergency service vehicles is not substantially impaired;
 - c. Adequate off-street parking is provided for the uses proposed; and
 - d. Adequate space for public utilities is provided within the street right-of-way.
 - (g) *Allowable Uses.*
 - (i) The range of allowable uses within a MP overlay district shall be the same range of uses allowed within the underlying base district as identified in Table 40.2-216 Use Table.
 - (ii) All applicable use-specific standards shall continue to apply within the MP overlay district.
 - (h) *Densities/Intensities.* The densities for residential development and the intensities for nonresidential development applicable in each development area of a MP overlay district shall be as established in the MP overlay master plan, and shall be consistent with city plans.
 - (i) *Dimensional Standards.* The dimensional standards applicable in each development area of a MP overlay district shall be as established in the MP overlay master plan. The MP overlay Master Plan shall include at least the following types of dimensional standards:
 - (i) Minimum lot area;
 - (ii) Minimum lot width;
 - (iii) Minimum and maximum setbacks;
 - (iv) Maximum lot coverage;
 - (v) Maximum building height;
 - (vi) Maximum individual building size;
 - (vii) Floor area ratio; and
 - (viii) Minimum setbacks from adjoining residential development or residential zoning districts.
 - (j) *Development Standards.* All development in a MP overlay district shall comply with the development standards of in Article III Development Standards, or any modifications of those standards shall be established in the MP overlay master plan, and shall be consistent with the comprehensive plan and the intent of MP overlay district.
 - (k) *Amendments to an Approved MP Overlay Master Plan.*
 - (i) *General.* If an applicant determines it is necessary to alter the concept or intent of the master plan or terms and conditions, the master plan or terms and conditions shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval.

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- (ii) *Amendments Defined.* The following items are considered an alteration of the concept or intent of the master plan and are treated as an amendment:
 - a. Changes in use designations;
 - b. Density/intensity increases;
 - c. Decreases in open space set-asides;
 - d. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
 - e. Change in the location of any non-utility public easement;
 - f. Change in the proportion of housing types by more than ten percent;
 - g. Substantial changes to the design or materials of structures; or
 - h. Violation of any specific condition of the master plan or terms and conditions.

(I) *Minor Deviations.*

(i) *General.*

- a. Subsequent plans and permits for development within an approved MP overlay district may include minor deviations from the master plan or terms and conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved district or any of its requirements.
- b. Changes that materially affect the basic concept of the master plan or basic parameters set by the terms and conditions are not considered minor deviations, and shall only be changed as amendments to the MP overlay district.

(ii) *Minor Deviations Defined.* The following shall constitute minor deviations:

- a. Driveway locations;
- b. Structure floor plan revisions;
- c. Minor shifts in building size or location; and
- d. Facility design modifications for amenities and the like.

(C) *Downtown Design (DD) Overlay District.*

(1) *Purpose.*

- (a) The purpose of the Downtown Design Overlay District is to support and enhance the downtown character for the designated area as identified on the Zoning Map.
- (b) District standards, in addition to those of the base sub-districts, support pedestrian oriented land uses as well as auto dependent land uses in designated locations.

(2) *Applicability.*

- (a) The standards and requirements included in this overlay district apply to all development in the DD Overlay District as identified.
- (b) Street corridor specific standards shall apply to those street corridors as specifically identified.

(3) *Standards.*

- (a) The standards outlined in the Downtown Design Manual apply in the DD Overlay District.
- (b) New development, rehabilitation, or redevelopment within the DD Overlay District requires approval of a Certificate of Appropriateness (in addition to any other required permits) from the Downtown Design Committee (DDC) in accordance with the procedures and requirements in Sec. 40.2-536 Certificates of Appropriateness (COA).

(D) *Innovation (I) Overlay District.*

(1) *Purpose.*

- (a) The purpose of the Innovation Overlay District is to support activity that stimulates innovation while offering value to entities that drive the economy and enhances the existing mixed-use character of the designated area as identified on the Zoning Map.
- (b) District standards, in addition to those of the base districts, support knowledge exchange, inclusive technology-driven services, and creative incubators with pedestrian oriented land uses as well as auto dependent land uses in designated locations.

(2) *Applicability.*

- (a) The standards and requirements included in this overlay district apply to all development in the I Overlay District as identified.
- (b) Street corridor specific standards shall apply to those street corridors as specifically identified.

(3) *Sub-Districts Established.* The Innovation Overlay District shall be comprised of a series of sub-districts, each with unique development and design standards.

- (a) London Boulevard Corridor;
- (b) High Street Corridor;
- (c) County Street Corridor.

(4) *Procedure.* New development or redevelopment, signs, façade changes, and lighting visible from a public right-of-way within the Innovation Overlay District shall be reviewed in accordance with the applicable development review procedure.

(5) *General Standards.* The following standards apply in the Innovation Overlay District:

- (a) A building on a lot abutting London Boulevard, High Street or County Street shall have the principal entrance to the building facing these streets unless the lot is a corner lot with a previously established frontage on a different public street.
- (b) On London Boulevard, building or buildings may be perpendicular to London Boulevard with principal façades and entrances facing the parking lot with parking located in the front of the building.
- (c) As an alternative to the standards in Sec. 40.2-218, the building setback along London Boulevard may be the average of other buildings along the same block.
- (d) Buildings on High Street may reduce the front setback to zero if abutting a sidewalk of at least eight feet in width. As an alternative, the building front setback along High Street may be the average of other building setbacks along the same block.
- (e) Buildings on County Street may reduce the front setback to ten feet. As an alternative, the building setback along County Street may be the average of other building setbacks along the same block.

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- (f) Buildings on Effingham Street may reduce the front setback to five feet.
 - (g) Developments in the Innovation Overlay District may apply for a Special Exception in accordance with Sec. 40.2-535 if complying with the parking requirements in Sec. 40.2-301 is not feasible.
- (6) *Prohibited Uses.* The following uses are prohibited with the exception of developments facing London Boulevard or Effingham Street:
- (a) Development with drive-through facilities;
 - (b) Convenience stores with gasoline pumps; and
 - (c) Gasoline sales.
- (7) *Residential Densities.*
- (a) Residential densities for residential development other than single-family detached shall be allowed up to 24 units per acre in the NMU district.
 - (b) Residential densities for residential development other than single-family detached shall be allowed up to 36 units per acre in the GMU district.
- (E) *Entertainment (E) Overlay District.*
- (1) *Definitions.* For the purposes of this section, the following words and terms shall have the following respective meanings, except where the context clearly indicates a different meaning:
- (a) "Board" means the Virginia Lottery Board established by Ch. 41 of the Code of Virginia.
 - (b) "Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Ch. 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.
 - (c) "Casino gaming establishment" has the meaning set forth in Sec. 40.2-213.
 - (d) "Casino gaming operator" means any person issued a license by the Board to operate a casino gaming establishment.
 - (e) "Department" means the independent agency responsible for the administration of the Virginia Lottery created in Ch. 41 of the Code of Virginia.
 - (f) "Director" means the Director of the Virginia Lottery.
 - (g) "Gaming operation" means the conduct of authorized casino gaming within a casino gaming establishment.
 - (h) "On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.
 - (i) "Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to Ch. 41 of the Code of Virginia.
 - (j) "Sports betting" means placing wagers on sporting events as such activity is regulated by the Board. "Sports betting" includes placing bets in-person and online sports betting on events as authorized by the Board.

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- (k) "Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming equipment, devices, or supplies, or provides any management services, to a licensee.
 - (l) "Ticket courier service" means a service operated for the purpose of purchasing Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.
 - (m) "Voluntary exclusion program" means a program established by the Board that allows individuals to voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the Board by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.
- (2) *Purpose.*
- (a) An entertainment overlay district is intended to establish standards and conditions for the development and operation of an entertainment establishment and/or casino gaming establishment including accessory uses while protecting the public health, safety, and general welfare by insuring they are compatible with existing and anticipated land uses (Code of Virginia § 58.1-4101).
 - (b) Because of the special characteristics of an entertainment overlay district, in particular casino gaming establishments, development in this district will require flexibility to accommodate their unique needs, especially in terms of signage and exterior lighting that would not typically be permitted in other areas of the City.
- (3) *Applicability.*
- (a) An entertainment overlay district is an overlay district that is superimposed over the High Intensity Mixed-Use (MU-H) zoning district with the intent of supplementing generally applicable development regulations with additional development regulations that address special area- and use-specific conditions, features, or plans while maintaining the character and purposes of the underlying base MU-H zoning district.
 - (b) The standards and requirements included in this overlay district apply to all development in an entertainment overlay district as identified.
- (4) *Procedure.*
- (a) An entertainment overlay district is established in accordance with the procedures and requirements for an amendment to the Zoning Map in accordance with Sec. 40.2-532 Zoning Map Amendment (Rezoning), and the standards in this section.
 - (b) The following are requirements for an application to establish an entertainment overlay district.
 - (i) Entertainment Overlay District Conceptual Master Plan. Development within an entertainment overlay district shall conform to the requirements of the City Council approved master plan. An entertainment overlay district master plan shall include:
 - a. Statement of planning objectives for the district;
 - b. District boundaries;
 - c. Location and square footage of individual development areas, identified by land use(s) and/or development density or intensity;
 - d. Conceptual architectural elevations of proposed entertainment establishment and/or casino gaming establishment footprints, setbacks, proposed heights, and lot coverage;

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- e. Architectural form, materials, and other guidelines for proposed buildings;
 - f. Parking and loading locations and quantity;
 - g. Pedestrian and vehicular circulation systems;
 - h. General location of all other on-site public facilities serving the development;
 - i. Location, amount, and type of open space set-asides;
 - j. Conceptual landscaping plan, including landscaping, street trees, appropriate buffers, and screening;
 - k. Conceptual signage plan including signage descriptions, sizes, locations, and examples;
 - l. Conceptual exterior lighting plan;
 - m. Traffic impact analysis (TIA) prepared in accordance with Sec. 40.1-5.122-545 Traffic Impact Analysis and with Code of Virginia § 15.2-2222, if required;
 - n. Development phasing plan in accordance with Sec. 40.2-208(E)(5);
 - o. Comprehensive list and justification of any proposed modifications to the applicable development and dimensional standards of the Zoning Ordinance.
- (5) *Development Phasing Plan.* If development in an entertainment overlay district is proposed to be phased, the entertainment overlay master plan shall include a development phasing plan with specified anticipated uses and timeframes that identifies the general sequence or phases in which the district is proposed to be developed, including:
- (a) Timing, process, and procedure of casino gaming establishment, hotel, convention center, entertainment venues, parking, parking structure, residential, and other nonresidential development; and
 - (b) Timing, process, and procedure of development of infrastructure (public and private) and open space.
- (6) *General Standards for all Entertainment Overlay Districts.*
- (a) *Zoning District.*
 - (i) An entertainment overlay district may only be approved with a base High Intensity Mixed-Use (MU-H) zoning district.
 - (ii) Any casino gaming use must be within an entertainment overlay district.
 - (b) *Minimum District Size.*
 - (i) An entertainment overlay district shall be at least 25 acres in size.
 - (ii) After an entertainment overlay district has been established, any additional land added to the district shall be:
 - a. Contiguous, which is defined as adjacent to or directly across any public street from the existing entertainment overlay district. For the purposes of this section, public street shall not include an interstate or similar street-type.
 - b. There is no minimum acreage or size requirement for area added to an existing entertainment overlay district.

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- c. Expansion of an existing entertainment overlay district shall follow the same process by which the entertainment overlay district was established.
 - d. Any area incorporated into an existing entertainment overlay district shall require an amendment to the adopted master plan.
 - (c) *Density.*
 - (i) The maximum density for residential development for the entertainment overlay district shall be 60 units per acre.
 - (ii) As part of a Use Permit application outlined in Sec. 40.2-533, the applicant may request a higher maximum density for City Council approval.
 - (d) *Dimensional Standards.*
 - (i) The dimensional standards applicable in each development area of the entertainment overlay district shall be as required by the dimensional standards of Sec. 40.2-203(D) Commercial Zoning Districts—High Intensity Mixed-Use (MU-H) District of the Zoning Ordinance, unless specified herein.
 - (ii) The maximum building height in an entertainment overlay district shall be 200 feet.
 - (iii) As part of a Use Permit application outlined in Sec. 40.2-533, the applicant may request an increase in the maximum building height for City Council approval.
 - (iv) As part of a Use Permit application outlined in Sec. 40.2-533, the applicant may request a reduction in building setbacks within the overlay district for City Council approval, except no reduction in setbacks is permitted along the perimeter of the entertainment overlay district.
 - (e) *Uses.*
 - (i) Uses within an entertainment overlay district shall be the same as the uses within the MU-H zoning district as identified in Table 40.2-216 Use Table with the exception of the following prohibited uses:
 - a. Manufactured home;
 - b. Rooming or boarding house;
 - c. Shelter;
 - d. Group home;
 - e. Halfway house;
 - f. Correctional facility;
 - g. Cemetery, columbarium, mausoleum;
 - h. All uses in the Adult Uses Category;
 - i. Flea market;
 - j. Bed and breakfast inn;
 - k. Self-service storage facility;
 - l. All uses in the Heavy Vehicle Sales and Service Use Category;
 - m. All uses in the Light Vehicle Sales and Service Use Category;

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- n. All uses in the Industrial Use Classification.
 - (ii) All applicable use-specific standards in Sec. 40.2-217 shall continue to apply within the entertainment overlay district.
 - (iii) As part of a Use Permit process outlined in Sec. 40.2-533, an applicant may request modifications to use-specific standards for City Council approval.
- (f) *Development Standards.*
- (i) All development in an entertainment overlay district shall comply with the development standards of Article III Development Standards unless permitted modifications are approved as provided herein.
 - (ii) Requests to modify the development standards in Sec. 40.2-301 Off-Street Parking, Sec. 40.2-306 Exterior Lighting, and Sec. 40.2-307 Signage are permitted as provided herein and shall be consistent with the intent of the entertainment overlay district.
 - (iii) *Off-Street Parking, Loading, and Circulation.*
 - a. *Off-Street Parking.*
 - i. For uses within a casino gaming establishment, such as casino gaming, restaurants, personal services, and retail, required off-street parking shall be provided at a ratio of not less than 0.75 parking spaces for each gaming position.
 - 1. Should a hotel or motel be incorporated within a casino gaming establishment, there shall be in addition not less than one parking space for each hotel room.
 - 2. Should a convention center be incorporated within a casino gaming establishment, there shall be in addition not less than one parking space per 500 square feet of convention space.
 - ii. An applicant may request modification to the aforementioned parking standards, in accordance with subsection 40.2-208(E)(6)(f)(iii)(b) below.
 - iii. Other uses within an entertainment district overlay shall meet the parking requirements in accordance with Sec. 40.2-301 unless modifications are approved pursuant to subsection 40.2-208(E)(6)(f)(iii)(b) below.
 - b. Modifications to parking standards are permitted through:
 - i. Alternative Parking Plan.
 - 1. In cases where development conditions require a deviation from the parking standards in Sec. 40.2-301 and/or Sec. 40.2-208(E)(6)(f)(iii), a request for an Alternative Parking Plan in accordance with Sec. 40.2-301(F) and Sec. 40.2-301(E)(8) shall be required:
 - a) As part of the entertainment overlay district master plan;
 - b) As part of any development application;
 - c) As part of a Use Permit process outlined in Sec. 40.2-533 with a parking demand study; or

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- d) As a Special Exception from the Board of Zoning Appeals in accordance with Sec. 40.2-535.
 - 2. As part of an Alternative Parking Plan, requests for off-site parking to meet the minimum off-street parking requirement is permitted in accordance with Sec. 40.2-301(F)(3), except as provided herein.
 - 3. Requests for off-site parking to meet the minimum off-street parking requirements shall be located no more than 800 feet from the lot line of the parcel of which the parking is required.

(iv) *Exterior Lighting.*

- a. Development in an entertainment overlay district, in particular casino gaming establishments, will have unique needs for exterior lighting that require flexibility and would not typically be permitted in other areas of the City.
- b. Exterior lighting shall comply with local, state, and federal regulations and shall not interfere with any public roadways including the interstate.
- c. Exterior lighting shall comply with Code of Virginia Ch. 12, Title 33.2.
- d. All development in an entertainment overlay district shall comply with Sec. 40.2-306 Exterior Lighting, unless modified in accordance with section e. below, with the following exceptions:
 - i. Maximum illumination levels shall be measured at the exterior boundaries of the district and not at any property boundaries within the district.
 - ii. Upwardly directed lighting may be used to illuminate structures and landscaping in the district.
 - iii. Awnings or canopies used for building accents over doors, windows, etc., may be internally illuminated (i.e. from underneath or behind the awning).
- e. Modifications to exterior lighting standards are permitted through:
 - i. Alternative Exterior Lighting Plan.
 - 1. In cases where development conditions require a deviation from the lighting standards in Sec. 40.2-306, a request for an Alternative Exterior Lighting Plan shall be required:
 - a) As part of the entertainment overlay district master plan;
 - b) As part of a Use Permit; or
 - c) For uses within an entertainment overlay district that do not require a Use Permit, a Use Permit may be applied for to request an Alternative Exterior Lighting Plan.
 - 2. An application for an alternative exterior lighting plan shall not be requested to increase the maximum illumination levels at the exterior district boundaries.
 - 3. An application for an Alternative Exterior Lighting Plan shall indicate how compliance with the standards in this Ordinance is impossible or impractical, and shall illustrate how compliance can be achieved

to the maximum extent practicable. Alternative plans, materials, or methods may be justified due to:

- a) Lot size or configuration;
- b) The presence of utility or other easements;
- c) The nature of the use or improvement as long as the request(s) does not impact adjacent residential development outside the district or create a safety hazard;
- d) The potential for interference with public safety; and
- e) Other situations where strict adherence to the lighting standards in this Ordinance are determined to be impractical by the Zoning Administrator.

(v) *Signage.*

- a. An entertainment overlay district, in particular casino gaming establishments, will have unique needs for signage, such as pylon signs or roof-mounted signs, that require flexibility and would not typically be permitted in other areas of the City.
- b. All signage shall comply with local, state, and federal regulations and shall not interfere with any public roadways including the interstate.
- c. The signs prohibited in Code of Virginia Sec. 33.2-1216 are prohibited in this overlay.
- d. All development in an entertainment overlay district shall comply with Sec. 40.2-307 Signage, unless modified in accordance with subsection 40.2-208(E)(6)(f)(v)(e) below, with the following exception:
 - i. Off-premises signs are permitted in the entertainment overlay district.
- e. Modifications to signage standards are permitted through:
 - i. Alternative Signage Plan. As part of the entertainment overlay district master plan, an applicant may submit an Alternative Signage Plan to request modification(s) to Sec. 40.2-307.
 - ii. Use Permit.
 - 1. As part of a Use Permit process outlined in Sec. 40.2-533, an applicant may request modifications to sign standards and/or to request signs that are prohibited in Sec. 40.2-307.
 - 2. For uses within an entertainment overlay district that do not require a Use Permit, a Use Permit may be applied for to request modifications to sign standards and/or to request signs that are prohibited in Sec. 40.2-307.
 - iii. Special Exception. As a Special Exception from the Board of Zoning Appeals in accordance with Sec. 40.2-307(M), an applicant may submit an alternative signage plan to request modification(s) to sign standards and/or request signs that are prohibited in Sec. 40.2-307.
 - iv. Alternative Sign Overlay District. As a Use Permit or as a Special Exception, an application for the establishment of an Alternative Sign

Overlay District shall be submitted, reviewed, and decided upon in accordance with Sec. 40.2-307(N).

(7) *Amendments to an Adopted Entertainment Overlay Master Plan.*

(a) *General.*

- (i) If an applicant determines it is necessary to alter the concept or intent of the adopted master plan, the master plan shall be amended, extended, or modified only by approval of City Council following the same procedure with which the overlay was established.
- (ii) In addition to the processes listed within this section and Ordinance, modification to the density maximum, building height maximum, use-specific standards in Sec. 40.2-217, and the development standards in Sec. 40.2-301 Off-Street Parking, Sec. 40.2-306 Exterior Lighting, and Sec. 40.2-307 Signage are also permitted via amendment to the adopted master plan as provided herein and shall be consistent with the intent of the entertainment overlay district.
- (iii) Modifications that are approved and referenced in subsection 40.2-208(E)(7)(a)(ii) above will be considered adopted amendments to the adopted entertainment overlay district master plan without requiring a separate amendment.
- (iv) Amendments approved as described in subsection 40.2-208(E)(7)(a)(ii) above shall only apply to the specific property for which the approval was granted and not for the entire entertainment overlay district.

(b) *Amendments Defined.* The following items are considered an alteration of the concept or intent of the adopted master plan and are treated as an amendment:

- (i) Any modification to the Development Phasing Plan;
- (ii) Changes in use designations;
- (iii) Decreases in open space set-asides shown on the adopted master plan greater than 20 percent. This does not include open space set-asides specifically required by individual uses in other sections of the Zoning Ordinance;
- (iv) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
- (v) Change in the proportion of housing types by more than ten percent;
- (vi) Substantial changes to the design or materials of structures; or
- (vii) Major alteration or modification of any specific condition of the master plan.

(8) *Minor Deviations.*

- (a) Subsequent plans and permits for development within an approved entertainment overlay district may include minor deviations from the master plan, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved entertainment overlay district or any of its requirements. The following shall constitute minor deviations:
 - (i) Minor shifts in building size or location;
 - (ii) Modifications of open space set-asides less than 20 percent; and

(iii) Facility design modifications for amenities and the like.

(b) Minor deviations can be approved through an administrative review process by the Zoning Administrator.

(F) *Chesapeake Bay Preservation Area (CBPA) Overlay District.*

- (1) The CBPA Overlay District is superimposed over portions of one or more underlying zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address the special-area specific conditions of land in a Chesapeake Bay Preservation Area.
- (2) The provisions establishing and governing the Chesapeake Bay Preservation Area Overlay District are set forth in Ch. 9.1 of the City Code.
- (3) The requirements set forth in Ch. 9.1 of the City Code shall control over any conflicting requirements in this Ordinance.

(G) *Floodplain (FP) Overlay District.*

- (1) The FP Overlay District is superimposed over portions of one or more underlying zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address the special area-specific conditions of land in the floodplain.
- (2) The provisions establishing and governing the Floodplain Overlay District are set forth in Ch. 14.1 of the City Code.
- (3) The requirements set forth in Ch. 14.1 of the City Code shall control over any conflicting requirements in this Ordinance.
- (4) The various special flood hazard districts shall include the special flood hazard areas (SFHAs).
- (5) The boundaries of the SFHA districts are established as shown on the Flood Insurance Rate Map (FIRM), which is declared to be a part of this Ordinance.
- (6) The basis for the delineation of these districts shall be the flood insurance study (FIS), and flood insurance rate map (FIRM) prepared for the City of Portsmouth by the Federal Emergency Management Agency, Federal Insurance Administration, dated August 3, 2015, and any subsequent revisions or amendments thereto.

(H) *Reserved for Future Use.*

Sec. 40.2-307. Signage.

(A) *Sign Definitions.*

AWNING—See Article VI Definitions.

MARQUEE—See Article VI Definitions.

PENNANT—A lightweight plastic, fabric, paper, or similar material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

SIGN—A surface, fabric, display, device, figure, painting, drawing, message, placard, poster, billboard, or other structure that is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from a street or bicycle or pedestrian path or from property other than the lot on which it is located. This term does not include flags displayed from flagpoles or staffs.

SIGN, A-FRAME—A sign designed to rest on the ground that consists of two sign faces connected together at the top to form an "A" shape sign with a broad base and narrow top when viewed from the side.

SIGN, ATTACHED—A sign that is attached, directly or indirectly to a building (e.g. wall sign, marquee sign) or structure that has a principal purpose other than supporting the sign (e.g. fence, light pole).

SIGN, AWNING—A sign that is part of or attached to the surface of an awning.

SIGN, BANNER—A sign constructed of cloth, canvas, fabric, paper, or other light materials, that does not have an integral supporting framework.

SIGN, BANNER POLE—A sign constructed of lightweight material and attached to and projecting from a light pole or similar structure, but not from a building.

SIGN, CANOPY—A sign attached to a canopy.

SIGN, FREESTANDING—A sign installed upon the ground directly or through a structure designed for the exclusive purpose of supporting the sign, and not attached to a building or other structure.

SIGN, GROUND—A permanent freestanding sign that is not a monument sign (e.g., because the sign is not wider than it is tall), a pole sign (e.g., because there is less than two feet of open air under the sign), or an off-premises sign.

SIGN, INFLATABLE—A sign that requires air pressure to maintain its shape.

SIGN, MARQUEE—A sign attached to or hung from a marquee.

SIGN, MONUMENT—A freestanding sign permanently mounted on or affixed to a solid decorative base or pedestal with no open air between the sign and the ground, that has, including the support structure, a total width that exceeds its height.

SIGN, NONCONFORMING—A sign lawfully existing that does not conform to all the standards and regulations of this Ordinance or the amendment.

SIGN, OFF-PREMISES—A sign that draws attention to or communicates information about a business, service, commodity, product, event or any goods or services conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN, OUTDOOR ADVERTISING—A sign structure providing displays or display space for general advertising and not primarily or necessarily for advertising related to the premises on which erected or to nearby premises. Such signs, commonly referred to as "billboards," are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease. Outdoor advertising signs may contain light emitting diode (LED) electronic displays that comply with state and federal law.

SIGN, PERMANENT—A sign that is intended for other than temporary use or a limited period. A permanent sign is affixed or attached to the exterior of a building or to a pole or other structure by adhesive or mechanical means or is otherwise characterized by anchoring, construction materials, or a foundation indicative of an intent to display the sign for more than a limited period.

SIGN, POLE—A freestanding sign permanently affixed to one or more masts, poles, or open braces that are secured permanently to the ground and have as their principal purpose support of the sign, such that there is a minimum of two vertical feet of open air under any portion of the bottom of the sign.

SIGN, PORTABLE OR WHEELED—A sign that is designed to be transported on wheels or that is constructed on a chassis.

SIGN, PROJECTING—A sign that is attached to and oriented approximately perpendicular to the wall or parapet of a building, the building having a principal function other than support of the sign. A projecting sign may include a blade sign.

SIGN, ROOF—A sign affixed to the roof of a building or to the wall of a building, and extending above the roofline.

SIGN, TEMPORARY—A temporary sign or display that is intended or constructed for display during a limited period of time only, and generally constructed of lightweight materials and installed in a manner so as to be easily removed.

SIGN, T-FRAME—Any sign designed to rest on the ground and consisting of a sign face mounted perpendicular to its base to form an upside-down "T" shape when viewed from the side.

SIGN, WALL—Any sign painted on or attached to the outside wall of any building and supported by such wall or building, and which displays only one surface.

SIGN, WIND SAIL—Any sign temporarily mounted along its edge on a single, flexible pole, and which generally resembles the shape of a feather, sail, bow, teardrop, or other similar shape.

SIGN, WINDOW—A sign which is painted on, applied to, or attached to a window or door, or located within three feet of the interior of the window or door, and which is legible and intended to be read from the exterior of the building.

SIGN, YARD—A lightweight temporary freestanding sign that is not a wind sail sign, inflatable sign, or A-frame or T-frame sign. A yard sign is generally installed in the ground on a wooden post or a thin frame made of metal.

(B) *Findings.* The City Council finds:

- (1) Signs provide a vital function for the convenience of the public and for the efficient communication of commercial and noncommercial speech.
- (2) Unlike oral speech, signs may cause harm by virtue of the physical space they occupy by obstructing views, distracting motorists, displacing alternative uses of land, and endangering the safety of persons or property.
- (3) The City has a substantial and compelling interest in all of the purposes set forth below and has a substantial and compelling interest in regulating signs in such a way that the harms caused by signs might be reduced and mitigated.
- (4) Signs are essential to the health and economic well-being of the City by:
 - (a) Facilitating consumer transactions and other commercial and industrial activities that allow businesses to be successful, which in turn provides employment and supports a stable tax base; and
 - (b) Providing information and directions for the safe and efficient travel of motor vehicles, bicycles, and pedestrians.
- (5) Signs have a strong visual impact on the character and aesthetic appearance of the City by:
 - (a) They are a prominent part of the cityscape and, as such, can enhance or detract from the City's image and character and facilitate or impede the creation of an attractive and harmonious environment in the City.
 - (b) Their suitability or appropriateness helps to define the way in which the City and neighborhoods within the City are perceived.

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- (6) The visual environment and character of the City are important factors in the City's economic well-being because they influence Portsmouth's appearance and land values.
 - (7) The visual environment and character of the City, as well as the orderly flow of traffic and safety of travel, are diminished when visual clutter results and the vision of motorists, bicyclists, and pedestrians is obstructed by the unrestricted proliferation and placement of signs, or from the improper maintenance of signs.
 - (8) Regulation of the size, height, number, and spacing of signs throughout the City is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the city, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, to provide ample, meaningful opportunities for persons who desire to display information by means of a sign to have their information seen and understood, and to provide for the orderly and reasonable display of advertising and other messages for the benefit of all persons in the City.
 - (9) For these reasons, the needs of individual citizens, property owners, and businesses to convey their commercial and noncommercial messages must be balanced against the goals of the City to ensure the safety of its roads and pedestrian-ways, maintain its desired character, and preserve and enhance the property values of property owners and businesses.
 - (10) The provisions of this section do not eliminate all of the harm that may be created by the installation and display of signs. Instead, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harm caused by signs.
 - (11) The provisions of this section do not apply to every form and instance of visual speech that may be displayed within the City. They are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth below.
 - (12) The provisions of this section are neither intended nor designed to restrict or control signs for the purpose of promoting or stifling any messages and content that might appear on them.
- (C) *Purpose.* The purpose of this section is to:
- (1) Promote and protect the public health, safety, and welfare of those within the city;
 - (2) Promote the efficient use of signs as a means of communication;
 - (3) Ensure that the right to free speech is protected;
 - (4) Maintain and enhance a visual environment that allows the city to attract sources of economic development and supports the economic well-being of the city's businesses;
 - (5) Protect and enhance the character, quality, and viability of the city's development and neighborhoods;
 - (6) Protect scenic views and avoid sign clutter;
 - (7) Reduce the distractions, obstructions, and hazards to pedestrian, bicycle, and vehicle traffic caused by the excessive number, size, height, illumination, movement, indiscriminate placement, overconcentration, or unsafe construction or maintenance of signs;
 - (8) Reasonably accommodate:
 - (a) The identification and advertising needs of businesses, institutions, and other entities; and
 - (b) The needs of persons moving through the public spaces of the city to identify and locate destinations and find desired products and services;

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- (9) Ensure signs are compatible with their surroundings, and minimize potential adverse effects on nearby properties;
 - (10) Enhance property values and business opportunities; and
 - (11) Enable efficient and consistent permitting and enforcement.

(D) *Applicability.*

- (1) Unless exempted in accordance with Sec. 40.2-307(F) below, any installation, erection, construction, alteration, or maintenance of a sign shall comply with the standards in this section.
- (2) The regulations of this section shall be in addition to any applicable provisions of the Uniform Statewide Building Code, the Virginia Outdoor Advertising Act, the 1950 Code of Virginia Sec. 33.1-351, et seq, and any other applicable codes. Nothing herein shall exempt a sign from compliance with these codes.
- (3) Signs in the Historic Districts or in the Downtown Design Overlay District shall comply with the requirements of their respective design guidelines and be approved by the Historic Preservation Commission or the Downtown Design Committee.
- (4) Except for temporary signs installed in accordance with Sec. 40.2-307(K) Temporary Sign Standards, all signs shall be permanently installed as defined by the Uniform State Building Code. Installation using ropes, cords, and the like is not considered permanent.

(E) *Prohibited Signs.* The following signs are prohibited in all zoning districts:

- (1) Roof signs;
- (2) Pennants;
- (3) Balloons which meet the definition of "sign" and are greater than two feet in diameter with tether more than two feet long extending from a roof or structure by means of a rope, string, or other device;
- (4) Obsolete signs containing sign copy, print, or graphics which advertise an activity, business, product, or service no longer produced or conducted on the premises.
 - (a) Obsolete signs shall be removed within six months of the halt of operations.
 - (b) An exception to the immediate removal of obsolete sign copy, print or graphics will occur where the owner or lessor of the premises on which the sign is located is seeking a new tenant, in which event the sign copy, print or graphics shall be removed by the owner or lessor at least two years from the date of vacancy of the premises on which the obsolete sign is located.
- (5) Portable or wheeled signs and portable or nonstructural signs with no permanently mounted, self-supporting structure, including signs mounted on wheels and otherwise constructed to be used as a temporary sign display, but not including signs applied directly to and flush with the body of a motor vehicle, as defined in Code of Virginia § 46.2-100, that is operable and duly licensed;
- (6) Off-premises signs, except in accordance with Sec. 40.2-307(J);
- (7) Signs that include movement or animation, other than changeable copy in accordance with Sec. 40.2-307(J);
- (8) Signs located in the right-of-way, except A-frame and T-frame signs in accordance with this section and signs placed in the right-of-way in accordance with Ch. 32 of the City Code;
- (9) Signs of a size, location, movement, content, coloring, or manner of illumination that may cause them to be misconstrued as traffic-control devices or signs; and

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- (10) Signs that hide from view any traffic or street sign or signal or that obstruct the view at a street or road intersection, as determined by the City Engineer.
- (F) *Exempted Signs.* Where not prohibited by Sec. 40.2-307(E) Prohibited Signs, the following signs are exempt from the standards in this section:
- (1) Any sign carved into masonry that is integral to a structure;
 - (2) Any sign consisting of a solid plate of bronze or similar corrosion-resistant metal that is permanently attached to a building and does not exceed four square feet in area;
 - (3) Gravestones;
 - (4) Traffic control signs and devices and similar signs erected by a government agency for public safety purposes;
 - (5) Any sign erected on city-owned property by a public agency that is under the control of the City Manager;
 - (6) Any sign required to be erected by city, state, or federal law;
 - (7) Any sign the City is prohibited from regulating by state or federal law, to the extent of the prohibition;
 - (8) Any sign applied directly and entirely to, and flush with, a horizontal surface paved with asphalt, concrete, or a similar material;
 - (9) Any permanent sign that is located in a parking lot or parking structure or adjacent to a loading area, if the sign is less than two square feet in area and, if freestanding, less than four feet in height and not located closer than the height of the sign from adjoining properties;
 - (10) Political campaign yard signs placed on private property pursuant to Code of Virginia §15.2-109; and
 - (11) Any sign that is applied directly to and flush with the body of a motor vehicle, as defined in Code of Virginia § 46.2-100, that is operable and duly licensed.
- (G) *Signs Not Requiring a Zoning Permit.* The following are subject to the standards in this section but do not require issuance of a Zoning Permit in accordance with Sec. 40.2-307(G):
- (1) Routine maintenance of a sign or changing of lettering or parts of signs designed to be regularly changed, including sign face changes;
 - (2) For each residential structure, and for each public entrance to a nonresidential or mixed-use structure, one sign that is permanently attached to the structure if the sign does not exceed two square feet in area;
 - (3) For each roadway frontage on a parcel of land upon which construction activities of any type are being performed, one temporary sign that does not exceed 32 square feet in area in a commercial or industrial zoning district or 24 square feet in area any other zoning district;
 - (4) A temporary sign securely and tautly affixed to temporary protective fencing erected around an area where construction activities of any type are being performed;
 - (5) For each roadway frontage on a parcel of land that is actively marketed for sale, lease, or rent, one-yard sign that does not exceed four square feet in a residential zoning district, eight square feet in a mixed-use zoning district, and 16 square feet in any other zoning district;
 - (6) In addition to signage required by state or federal law, signs attached to a gas pump that do not exceed four square feet in area;
 - (7) Window signs located in the NMU, GMU, IN, and WF districts; and if consistent with applicable adopted design standards, window signs located in the MU-H district; and

- (8) Signs oriented toward the interior of and intended to be viewed from within an outdoor recreation or entertainment establishment or facility.
- (H) *Procedure for Compliance.*
- (1) Unless not required in accordance with Sec. 40.2-307(G) above, a Zoning Permit issued in accordance with Sec. 40.2-530 Zoning Permit, is required prior to any activity that is subject to this section. The Sign Zoning Permit application may be reviewed concurrently with a development plan application for the same site.
 - (2) Signage Requiring a Use Permit. A Use Permit must be obtained, pursuant to Sec. 40.2-533 Use Permits prior to undertaking any of the following activities:
 - (a) Installation of a new off-premises sign or a new outdoor advertising sign;
 - (b) Replacement of an off-premises sign or an outdoor advertising sign;
 - (c) Modification of an off-premises sign or an outdoor advertising sign, including a conversion to an LED electronic display or an automatic changeable copy display; and
 - (d) Modification of a nonconforming off-premises sign or a nonconforming outdoor advertising sign, including a conversion to LED electronic display or an automatic changeable copy display.
- (I) *General Sign Standards.*
- (1) Classification of Sign Types. For purposes of this section, signs are generally classified as either permanent or temporary, and as either freestanding or attached. Table 40.2-307(1), Classification of Sign Types, identifies signs according to their classification.

TABLE 40.2-307(1): CLASSIFICATION OF SIGN TYPES

	Attached	Freestanding
Permanent	Awning sign Banner pole sign Canopy sign Marquee sign Off-premises sign Projecting sign Wall sign Window sign	Ground sign Monument sign Off-premises sign Outdoor advertising sign Pole sign
Temporary	Banner sign Banner pole sign Inflatable sign Window sign	A-frame or T-frame sign Inflatable sign Wind sail sign Yard sign

- (2) *Measurement of Signs.*
 - (a) *Sign Height.* The height of a sign shall be measured from the top edge of the sign to the ground level measured at the edge of the pavement of the public street on which the sign faces.
 - (b) *Sign Area.*
 - (i) The area of a sign shall be computed as the area within the smallest standard geometric shape that encloses the extreme limits of lettering, representations, emblems, or other

figures, together with all surrounding material, trim, or ornamentation that either form the integral part of the display or differentiate the sign from the background where it is placed.

- (ii) The structural supports for a sign, whether they be columns, pylons or a building or part thereof, shall not be included in the sign area unless they are designed as integral parts of the sign for the purpose of illustration or attraction.
- (3) *Sign Faces.* No sign shall have more than two faces.
- (4) *Materials.*
- (a) Permanent signs shall be constructed of durable, weatherproof materials.
 - (b) D1 District. In the D1 district, a sign shall not be constructed of:
 - (i) Unfinished materials, including unpainted wood;
 - (ii) Highly reflective materials; or
 - (iii) Plastic.
- (5) *Illumination.*
- (a) Illumination, where permitted, shall be designed, installed and maintained in a manner that avoids glare on adjoining properties and that avoids glare or reflection which in any way interferes with traffic safety.
 - (b) Where illumination is by a source external to the sign, the source of illumination shall be aimed and shielded so that direct illumination is focused exclusively on the sign face and is not visible from off-site areas.
 - (c) The luminance of a sign shall not exceed 1,500 nits during daylight hours and 150 nits at all other times. Signs incorporating displays that use light emitting diodes (LEDs), charge coupling devices (CCDs), plasma, or functionally equivalent technologies shall be equipped with automatic dimming technology and certified by the manufacturer or a qualified professional to be compliant with the maximum luminance standards in this subsection (6)(c).
 - (d) In the UR, UR-M, and historic (HR, HLO and HLB) zoning districts, signs shall be illuminated only by a source external to the sign.
 - (e) In the D1 district, any illumination of a sign shall be directed at the sign from an external, shielded lamp, emitting a warm light, similar to daylight, except:
 - (i) Backlighting of individual letters is allowed; and
 - (ii) If approval of the sign by the Downtown Design Committee is required, the Committee may allow internal sign illumination, such as neon in limited amounts or incandescent bulbs, or other sign illumination, if the Committee determines the proposed illumination is compatible with the character of the street and with the historic character of individual buildings and the district as a whole.
- (6) *Automatic Changeable Copy.*
- (a) Automatic changeable copy means the capacity to display words, symbols, figures, or images that can be electronically changed by remote or automatic means, as distinct from conventional manual-change copy.
 - (b) Signs incorporating automatic changeable copy are permitted in any zoning district, but are not permitted on any property containing a use listed under the Household Living or Group Living subcategories of the Residential Use category as shown in table 40.2-216 Use Table.

- (c) Signs incorporating automatic changeable copy shall comply with the following standards:
 - (i) The display or copy shall remain static prior to each change for a period of not less than eight seconds.
 - (ii) Each change of the display or copy shall be accomplished within 0.25 seconds or less if the change is affected by digital means, or two seconds if the change is effected by mechanical means.
 - (iii) Each change of the display or copy shall be accomplished without the use of animation, scrolling, or simulated movement.
 - (iv) The device that automatically changes the display or copy shall be designed and equipped to maintain a static display if a malfunction occurs.
- (7) *Substitution of Content.* The replacement of commercial content with noncommercial content on any sign permitted by this section is expressly allowed.
- (8) *Maintenance.*
 - (a) Each sign shall be maintained in good condition at all times. Maintenance shall include, but is not limited to, the following:
 - (i) Each sign shall be kept free of holes, tears, and fraying;
 - (ii) Each sign shall be kept free of rust, rot, and similar degradation; and
 - (iii) Cracked, shattered, or similarly damaged parts of a sign shall be replaced
 - (b) In the event that a use has ceased operating on the site for a period of six months, all related sign faces shall be removed by the property owner.
- (J) *Permanent Sign Standards.*
 - (1) *Permanent Sign Types Allowed in Each Zoning District.* The types of permanent signs allowed in each zoning district are identified in Table 40.2-307(2), Permanent Sign Types Allowed in each Zoning District. For each type of sign, the right-most column references the specific standards that apply to that type of sign.

TABLE 40.2-307(2): PERMANENT SIGN TYPES ALLOWED IN EACH ZONING DISTRICT

TYPE OF SIGN	ZONING DISTRICT											STANDARDS SPECIFIC TO SIGN TYPE
	NR, C	UR, C	NMU	GMU	MU-	IL, IN	D1	WF	C	HLO, C	HR	
ATTACHED SIGNS												
Awning sign	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	Sec. 40.2-307(J)(3)(a)
Banner pole sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	Sec. 40.2-307(J)(3)(b)
Canopy sign	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	Sec. 40.2-307(J)(3)(c)
Marquee sign	no	no	no	yes	no	no	yes	no	no	no	no	Sec. 40.2-307(J)(3)(d)
Off-premises sign	no	no	no	no	no	yes	no	no	no	no	no	Sec. 40.2-307(J)(3)(e)

Projecting sign	no	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	Sec. 40.2-307(J)(3)(f)
Wall sign	no	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	Sec. 40.2-307(J)(3)(g)
Window sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	Sec. 40.2-307(J)(3)(h)
FREESTANDING SIGNS													
Ground Sign	no	yes	yes	yes	yes	yes	no	yes	yes	no	no	no	Sec. 40.2-307(J)(4)(b)
Monument sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	Sec. 40.2-307(J)(4)(c)
Off-premises sign	no	no	no	no	no	yes	no	no	no	no	no	no	Sec. 40.2-307(J)(4)(d)
Outdoor Advertising Sign	no	no	no	no	no	yes	no	no	no	no	no	no	Sec. 40.2-307(J)(4)(d)
Pole Sign	no	no	yes	yes	yes	yes	no	yes	yes	no	no	no	Sec. 40.2-307(J)(4)(e)

(2) *Maximum Total Sign Area per Lot for Permanent Signs.*

- (a) On any lot, the maximum total sign area of all permanent signs and any additional sign area restrictions for permanent attached signs and permanent freestanding signs are established in Table 40.2-307(3), Maximum Total Sign Area Per Lot for Permanent Signs, for the zoning district in which the sign(s) is located.
- (b) Where an individual establishment not on a separate lot directly adjoining a street is located in a shopping center, the sign area allowances of such establishment shall be calculated on the basis of its occupancy frontage, which shall be treated for such purposes as if it were street frontage or front building facade.

TABLE 40.2-307(3): MAXIMUM TOTAL SIGN AREA PER LOT FOR PERMANENT SIGNS

"sf." = square feet; ft. = feet			
ZONING DISTRICT	MAXIMUM TOTAL SIGN AREA PER LOT FOR ATTACHED AND FREESTANDING SIGNS (EXCLUDING WINDOW SIGNS)	ADDITIONAL SIGN AREA RESTRICTIONS FOR ATTACHED SIGNS	ADDITIONAL SIGN AREA RESTRICTIONS FOR FREESTANDING SIGNS
NR GR	10% of the area of the front building facade, or 1 sf. for every 5 linear ft. of street frontage, whichever is greater, provided, no individual sign shall have a sign area in excess of 18 sf.	None	Not more than 36 sf., or 1 sf. for every 8 linear ft. of street frontage, whichever is less

UR UR-M HR HLO HLB	10% of the area of the front building facade, or 1 sf. for every 2 linear ft. of street frontage of the lot, whichever is greater, provided, no individual sign shall have a sign area in excess of 18 sf.	None	Not more than 36 sf., or 1 sf. for every 3 linear ft. of street frontage, whichever is less, provided, no sign shall have a sign area in excess of 18 sf.
NMU GMU MU-H IL IN WF	10% of the area of the front building facade or 1 sf. for every 1 linear ft. of street front of the lot, whichever is greater, provided, no sign located on a lot having less than 40 linear ft. of street frontage shall have a sign area in excess of 40 sf.	None	None
C	One sign permitted, maximum 20 sf. in area		
D1	10% of the area of the front building façade, provided no sign located on a lot having less than 40 linear ft. of street frontage shall have a sign area in excess of 40 sf.	None	Signs in the DD Overlay District shall comply with DDC guidelines.

(3) *Permanent Attached Sign Standards (On-Site and Off-Premises)*. The general standards established for each type of permanent attached sign in subsections (a) through (g) below apply in all zoning districts, unless explicitly stated otherwise for specific zoning districts.

(a) *Awning Sign*.

(i) *Standards*. A permanent attached awning sign shall comply with the following standards:

- a. One awning sign is allowed on a lot for each public street on which the lot has frontage.
- b. Awning signs are allowed only on awnings attached to the ground floor of a building.
- c. An awning sign that is suspended from the bottom of an awning shall:
 1. Not extend horizontally beyond the edges of the awning; and
 2. Maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign.
- d. An awning sign that is applied directly to the surface of an awning shall not be illuminated internally or have any form of backlighting.

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- e. An awning sign that is mounted on the front or side of an awning shall not extend above the highest point where the awning attaches to the building.
- (b) *Banner Pole Sign.*
- (i) *Standards.* A permanent attached banner pole sign shall comply with the following standards:
 - a. A banner pole sign may be attached to a privately owned light pole not in the right-of-way.
 - b. The surface area of a banner pole sign shall not exceed eight square feet as measured on a single side.
 - c. When two banner pole signs are affixed to a single light pole, both banner pole signs shall be consistent with each other with respect to size and shape so as to create uniformity.
 - d. When the light pole onto which a banner pole sign is placed is located within the paved portion of a parking lot, and the light pole base is unprotected from vehicular traffic, the bottom of the banner pole sign shall be a minimum of 15 feet above the parking surface over which the banner is placed. If the base of the light pole is protected from vehicular traffic, this provision shall not apply.
 - e. When the light pole is located within a pedestrian area, the bottom of the banner pole sign shall be a minimum of eight feet above the surface over which the banner pole sign is placed, unless the banner pole sign is sufficiently narrow so as to not extend beyond the base of the light pole.
 - f. Any horizontal supporting members shall either be removed when not in use or shall be of a hinged design and folded into a vertical position when not in use.
 - g. A banner pole sign shall not be illuminated in any manner except as incidental to the lighting fixture supported by the light pole.
 - h. A banner pole sign shall be equipped with ventilation flaps.
 - i. A banner pole sign shall be removed or replaced if faded, torn, ripped, or torn.
- (c) *Canopy Sign.*
- (i) *Standards.* A permanent attached canopy sign shall comply with the following standards:
 - a. One canopy sign is allowed on each side of a canopy visible from a public street on which the lot has frontage.
 - b. A canopy sign shall not extend above, beyond, or below any edge of the vertical face of the canopy roof structure.
 - c. The sign area of a canopy sign shall not exceed 20 percent the area of the vertical face of the side of the canopy roof structure to which it is attached.
- (d) *Marquee Sign.* A marquee sign shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign.
- (e) *Off-Premises Signs and Outdoor Advertising Signs (Attached and Freestanding).*
- (i) *IL and IN Districts.* Off-premises signs and outdoor advertising signs (attached and freestanding) are permitted only in the IL and IN districts after a Use Permit for the sign has been approved by the City Council in accordance with Sec. 40.2-533 Use Permits.

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- (ii) *Standards.* Off-premises signs and outdoor advertising signs (attached and freestanding) shall comply with the following standards:
 - a. The maximum sign area shall not exceed 672 square feet;
 - b. The maximum height shall not exceed 50 feet;
 - c. All such signs shall:
 - 1. Have no more than two sign faces;
 - 2. Be located not less than 25 feet from the right-of-way of any public street;
 - 3. Be located not less than 15 feet from any other lot line, or, if the lot line adjoins property in the NR, GR, UR, or UR-M district, by a distance at least equal to the height of the sign; and
 - 4. Be erected not less than 500 feet from any other off-premises sign on the same side of the same street.
 - d. Off-premises signs and outdoor advertising signs (attached and freestanding) within 660 feet of the right-of-way of any highway classified as an interstate highway or as a federal aid primary highway shall also obtain all necessary approvals from the Virginia Department of Transportation pursuant to Code of Virginia § 33.2-1200 et seq.

(f) *Projecting Sign.*

- (i) *Standards.* A projecting sign shall comply with the following standards:
 - a. Not extend more than six feet from a building to which it is attached;
 - b. Be perpendicular to the building to which it is attached;
 - c. Maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign;
 - d. Not exceed 12 square feet in area;
 - e. Not be illuminated; and
 - f. If located within the public right-of-way, comply with the provisions of Sec. 32-7 of the City Code pertaining to street encroachments.
 - g. D1 District. In the D1 district, only one projecting sign is permitted per storefront.

(g) *Wall Sign.*

- (i) *D1 District.* In the D1 district, a wall sign shall not obscure moldings or transoms.

(h) *Window Sign.* A window sign shall comply with the following standards:

- (i) On any floor of a building, the total sign area of window signs shall not exceed 20 percent of the facade area comprised of windows.
- (ii) A window sign shall not be illuminated by any source other than a source external to the sign.

- (4) *Permanent Freestanding Sign Standards (On-Site and Off-Premises).* The general standards established for permanent freestanding signs in subsection (a) below and for each type of permanent attached sign

in subsections (a) through (e) below, apply in all zoning districts, unless explicitly stated otherwise for specific zoning districts.

(a) *Standards.* A permanent freestanding sign shall comply with the following standards:

- (i) One freestanding sign support structure is allowed on a lot for each public street on which the lot has frontage.
- (ii) The sign support structure shall not support multiple co-located signs unless they are placed parallel to a common plane and arranged in one or a combination of the following ways:
 - a. Back-to-back;
 - b. In rows; or
 - c. In columns.
- (iii) A freestanding sign and its supporting structure shall be located not less than:
 - a. Seven feet from the front lot line; and
 - b. Fifteen feet from any adjoining property located in the NR, GR, UR, UR-M, HR, HLO, or HLB zoning district.

(b) *Ground Sign.*

- (i) *Standards.* In addition to the standards in Sec. 40.2-307(J)(4)(a), a permanent ground sign shall comply with the following standards:
 - a. A ground sign shall not exceed a height of 25 feet.
 - b. NR, GR, or C District. In the NR, GR, or C district, a ground sign shall:
 - 1. Not exceed six feet in height; and
 - 2. Not be illuminated by any source other than a source external to the sign.
 - c. UR or UR-M District. In the UR or UR-M districts, a ground sign shall not exceed ten feet in height.

(c) *Monument Sign.*

- (i) *Standards.* In addition to the standards in Sec. 40.2-307(J)(4)(a), a permanent monument sign shall comply with the following standards:
 - a. A monument sign shall not exceed a height of 12 feet.
 - b. The base of pedestal of a monument sign shall be constructed of brick, stone, concrete, or a material of similar bulk, weight, and durability.
 - c. A monument sign shall not be located less than one foot away from any right-of-way.
 - d. NR, GR, or C District. In the NR, GR, or C district, a monument sign shall:
 - i. Not exceed six feet in height; and
- ii. Not be illuminated by any source other than a source external to the sign.
 - e. UR or UR-M District. In the UR or UR-M district, a monument sign shall not exceed eight feet in height.

- (d) *Off-Premises Sign (Freestanding)*. In addition to the standards in Sec. 40.2-307(J)(4)(a), freestanding off-premises sign shall comply with the standards in Sec. 40.2-307(J)(3)(d).
- (e) *Pole Sign*.
- (i) *Standards*. In addition to the standards in Sec. 40.2-307(J)(4)(a), a permanent pole sign shall comply with the following standards:
- a. A pole sign shall not exceed a height of 25 feet.
 - b. NR or GR District. In the NR or GR district, a pole sign shall:
 - i. Not exceed six feet in height; and
 - ii. Not be illuminated by any source other than a source external to the sign.
 - c. UR or UR-M District. In the UR or UR-M district, a pole sign shall not exceed ten feet in height.

(K) *Temporary Sign Standards*.

- (1) *Temporary Signs Allowed in Each Zoning District*. The types of temporary signs allowed in each zoning district are identified in Table 40.2-307(4), Temporary Signs Allowed in Each Zoning District.

TABLE 40.2-307(4): TEMPORARY SIGNS ALLOWED IN EACH ZONING DISTRICT

TYPE OF SIGN	ZONING DISTRICT											STANDARDS SPECIFIC TO SIGN TYPE		
	NR	GR	UR, UR-	NMU	GMU	MU-H	IL IN	D1	WF	PG	HR		HLB	HLO
Banner sign	yes		yes	yes		yes	yes	yes	yes	yes	yes	yes	yes	Sec. 40.2-307(K)(2)(a)
Banner pole sign	no		yes	yes		yes	yes	yes	yes	no	yes		no	Sec. 40.2-307(K)(2)(b)
Inflatable sign	no		no	no		no	yes	no	no	no	no		no	Sec. 40.2-307(K)(2)(c)
Window sign	no		yes	yes		yes	yes	yes	yes	no	no		yes	Sec. 40.2-307(K)(2)(d)
A-frame or T-frame sign	no		no	no		no	no	yes	no	no	no		no	Sec. 40.2-307(K)(3)(a)
Inflatable sign	no		no	no		no	yes	yes	no	no	no		no	Sec. 40.2-307(K)(3)(b)
Wind sail sign	no		yes	yes		yes	yes	no	yes	yes	no		no	Sec. 40.2-307(K)(3)(c)
Yard sign	yes		yes	yes		yes	yes	yes	yes	yes	yes		yes	Sec. 40.2-307(K)(3)(d)

(2) *Standards for Temporary Attached Signs*.

- (a) *Banner Sign*. Unless affixed to temporary protective fencing in accordance with this section, a temporary banner sign shall not be displayed for a cumulative period of time longer than 30 days in any calendar year.
- (b) *Banner pole sign (Temporary)*. A temporary banner pole sign shall:

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- (i) A temporary banner pole shall maintain a minimum of eight feet clear height above the ground.
 - (ii) A temporary banner pole sign shall not be displayed for a cumulative period of time longer than 60 days in any calendar year.
- (c) *Inflatable Sign (Attached)*. A temporary inflatable attached sign shall:
- (i) Project no more than 30 feet above the roof line or top of the building or structure to which they are attached;
 - (ii) Not be designed to generate animation or movement; and
 - (iii) Be displayed no more than once per year per lot, for a period of time not to exceed seven days.
- (d) *Window Sign (Temporary)*. A temporary window sign shall comply with the standards in Sec. 40.2-307(J)(3)(g).
- (3) Standards for Temporary Freestanding Signs.
- (a) A-frame or T-frame Sign. A temporary freestanding A-frame or T-frame sign shall:
- (i) One sign is permitted per establishment.
 - (ii) Sign area shall not exceed two feet in the horizontal dimension and three and one-half feet in the vertical dimension.
 - (iii) The sign shall be located in front of, and within 16 feet of the main entrance to, the premises.
 - (iv) The placement of signs must not interfere with pedestrian traffic, curb ramps, or access to buildings, driveways, or fire escapes
 - (v) The sign shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.
 - (vi) The sign shall be internally weighted so that it is stable and windproof.
- (b) *Inflatable Sign (Freestanding)*. A temporary inflatable freestanding sign shall:
- (i) Have a height not exceeding 30 feet above ground level;
 - (ii) Not be designed to generate animation or movement; and
 - (iii) Be displayed no more than once per year per lot, for a period of time not to exceed seven days.
- (c) *Wind Sail Sign*. A temporary wind sail sign shall comply with the following standards:
- (i) One temporary wind sail sign is allowed on a lot that has at least 25 feet of street frontage. One additional temporary wind sail sign is allowed on the lot for each additional 50 feet of lot street frontage above 25 feet;
 - (ii) A wind sail sign shall not exceed nine feet in height;
 - (iii) A wind sail sign shall not be located within 25 feet of another wind sail sign on the same lot.
 - (iv) A wind sail sign shall not be located less than seven feet from the right-of-way.
- (d) *Yard Sign*. A temporary yard sign shall comply with the following standards:

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- (i) In addition to signs identified in Sec. 40.2-307(G), Signs Not Requiring a Zoning Permit, up to four temporary yard signs having a combined sign area not exceeding 24 square feet are allowed per lot.
 - (ii) A yard sign shall not exceed six feet in height.
 - (L) *Nonconforming Signs Section.* See Sec. 40.2-508 Nonconforming Signs.
 - (M) *Alternative Signage Plan.*
 - (1) *Eligibility.* Large-scale development with common design elements (such as a shopping center, an office park, or large institutions such as a university or medical center with multiple buildings on a campus) may apply for a Special Exception to authorize alternative signage in accordance with an Alternative Signage Plan that proposes a comprehensive set of signage standards in-lieu of compliance with standards in this section.
 - (2) *Approval and Amendment Process.*
 - (a) *Special Exception.*
 - (i) Application, consideration, and approval or denial of a Special Exception permit for an Alternative Sign Plan, and any subsequent amendments to an approval, shall conform to and be governed by the procedures set forth in Sec. 40.2-535 Special Exceptions.
 - (ii) In addition to the Special Exception permit standards in Sec. 40.2-535, prior to approval of the Special Exception permit, the Board of Zoning Appeals shall also find that the proposed Alternative Sign Plan is consistent with the purpose of this Section, includes common elements and a consistent design scheme, is consistent with the purposes of the zoning district in which it is located, and is compatible with surrounding development.
 - (b) *Reserved.*
 - (N) *Alternative Sign Overlay District.*
 - (1) *Purpose.* Certain large-scale development with common design elements, including, but not limited to, office parks, entertainment establishments, corporate centers, and medical centers having a multi-building campus, or development that is unique in its design, operating characteristics, and presence in the city, including, but not limited to, outdoor performing arts centers, may present unique development opportunities of special value to the city. In order to ensure that the economic, social, and cultural benefits of that type of development are optimized, the establishment of one or more localized alternative sign overlay districts is authorized to address the unique signage needs and opportunities associated with the development.
 - (2) *Applicability.* The type of large-scale development described in subsection (1) above may be classified to an Alternative Sign Overlay District in accordance with subsection (3) below. All properties located within Alternative Sign Overlay District shall be subject to the signage standards of the Alternative Sign Overlay District in-lieu of the standards in this section.
 - (3) *Procedure for Establishment.* An application for the establishment of an Alternative Sign Overlay District shall be submitted, reviewed, and decided upon in accordance with Sec. 40.2-532 Zoning Text and Zoning Map Amendments. Such an application shall include, at a minimum, the following:
 - (a) A description of the boundaries of the proposed district;
 - (b) A statement of the reasons for the request; and
 - (c) A comprehensive set of signage standards proposed by the applicant to be applied within the district.

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- (4) *Comprehensive Signage Standards.* Comprehensive signage standards in an Alternative Sign Overlay District shall consist of a comprehensive design scheme that:
- (a) Includes common elements;
 - (b) Is compatible with the character of the underlying base district;
 - (c) Is consistent with the purpose of this Section; and
 - (d) Is consistent with surrounding development.

(Ord. No. 2021-46 , § 1(Exh. A), 6-22-2021; Ord. No. 2021-94 , § 1(Exh. A), 10-12-2021)

ARTICLE VI. DEFINITIONS

The following definitions shall be used in the interpretation and administration of this Ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

- (A) The following rules for general construction of language shall apply to this Ordinance:
- (1) Any words pertaining to gender shall be interchangeable.
 - (2) The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
 - (3) All public officials, bodies, and agencies referred to in this Ordinance are those of the City of Portsmouth, Virginia, unless otherwise specifically indicated.
- (B) Where terms are not defined, they shall have their ordinarily accepted meaning, or such as the context may imply.
- (C) The following definitions shall apply in the administration of this Ordinance:

ABANDONMENT—With regard to nonconformities, abandonment shall mean that use or occupancy of a nonconformity has ceased for a period of two or more consecutive years. See Article IV.

ABUTTING—Having a common lot line or boundary with; touching.

ACCESSORY BUILDING OR STRUCTURE—A structure that is detached from and subordinate to the principal structure in use and square footage and located on the same lot, such as a shed, detached garage, carport, etc. No such accessory structure or building shall be used as a dwelling unit unless expressly permitted. See Sec. 40.2-217(I).

ACCESSORY DWELLING UNIT (ADU)—A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot. See Sec. 40.2-217(I)(3)(b).

ACT OF GOD—Any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. See Sec. 40.2-403(B)(4)(d).

ADDITION—Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

ADJACENT—Abutting or located directly across a street or alley.

ADULT DAY CARE CENTER—See Sec. 40.2-212.

ADULT ENTERTAINMENT ESTABLISHMENT—See Sec. 40.2-213.

ADULT RETAIL STORE—See Sec. 40.2-213.

ALLEY—A minor way that is of relatively narrow width and is designed to give access to the side or rear of properties whose principal frontage is on another street.

ALLOWABLE YARD ENCROACHMENT—See Sec. 40.2-218(A)(5).

ALTERATION—Any change or expansion in the size, configuration, or location of a structure; or any change or expansion in the use of a structure or lot.

APIARY—A place where bee colonies are kept.

APICULTURE (BEEKEEPING)—See Sec. 40.2-215.

APPEAL—See Sec. 40.2-522.

APPLICATIONS—See Sec. 40.2-520.

AMATEUR RADIO TOWER—See Sec. 40.2-215.

ANIMAL GROOMING—See Sec. 40.2-213.

ANIMAL SHELTER—See Sec. 40.2-213.

ANTENNA—Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

ASSISTED LIVING FACILITY—See Sec. 40.2-212.

AUDITORIUM—See Sec. 40.2-212.

AUTOMATIC CHANGEABLE COPY—See Sec. 40.2-307(I)(6).

AWNING—A cover constructed of fabric, plastic, or a similar lightweight material that is entirely supported by the building to which it is attached, that has the purpose of shielding a doorway, window, porch, terrace, or platform from the elements. This term does not include a marquee or a canopy.

BASEMENT—That portion of a building all or partly underground but having at least one-half of its height, the distance between the ceiling and the floor, below grade.

BED AND BREAKFAST INN—See Sec. 40.2-213.

BERM—See Sec. 40.2-304(C)(5).

BICYCLE PARKING—An area or structure used for mounting and securing bikes when not in use. Bicycle parking may include, but shall not be limited to, outdoor bike racks, outdoor bike lockers, and indoor bike storage rooms. See Sec. 40.2-303.

BICYCLE PARKING, LONG-TERM—See Sec. 40.2-303.

BICYCLE PARKING, SHORT-TERM—See Sec. 40.2-303.

BOARD OF ZONING APPEALS (BZA)—The Board of Zoning Appeals for the City of Portsmouth, Virginia appointed by City Council. See Sec. 40.2-503.

BOARDING HOUSE—See Sec. 40.2-211.

BOAT AND MARINE RENTAL AND SALES—See Sec. 40.2-213.

BUFFER, LANDSCAPE—An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking. See Sec. 40.2-304(E).

BUILDABLE AREA—The portion of the lot remaining after required yards have been provided and after the limitations of any pertinent utilities and environmental regulations such as wetlands, Chesapeake Bay Resource Protection Areas (RPAs), and land below mean high tide are subtracted from the total lot area.

BUILDING—A combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property.

BUILDING CODE—The Virginia Uniform Statewide Building Code adopted by the Department of Housing and Community Development and any amendments thereto.

BUILDING COVERAGE—See Sec. 40.2-218(B)(1).

BUILDING HEIGHT—See Sec. 40.2-218(C)(1).

BUILDING, OFFICIAL—The person appointed by the City Manager as the executive official in charge of the Department of Permits and Inspections as described in Ch. 7 of City Code.

BUILDING, PERMIT—An approval statement signed by the Building Official authorizing the construction, alteration, reconstruction, or demolition of all or part of any building as described in Ch. 7 of City Code. Building permits are required to erect, enlarge, alter, remove, demolish, or repair a structure or portion thereof. This includes everything from decks, fireplaces, storage sheds and garages, to commercial construction, alterations and additions.

BUILDING PERMIT APPLICATION—An application to request the approval of the Building Official to construct, alter, reconstruct, or demolish all or part of any building as described in Ch. 7 of City Code.

BUILDING, PRINCIPAL—A building or buildings that contain the principal use of the lot on which it is situated.

BUILDING, ACCESSORY—See "ACCESSORY BUILDING OR STRUCTURE" and Sec. 40.2-217(I).

BUILDING SIZE—See Sec. 40.2-218(B)(2).

BULK FUEL/FUEL OIL STORAGE AND SALES—See Sec. 40.2-214.

BUSINESS OR TRADE SCHOOL—See Sec. 40.2-212.

BUSINESS SUPPORT SERVICE—See Sec. 40.2-213.

BREWERY/DISTILLERY—See Sec. 40.2-213.

BROADCASTING OR COMMUNICATION TOWER—See Sec. 40.2-212.

BY RIGHT—A use permitted in a zoning district as designated by a "P" in Sec. 40.2-216, without review by a review board, and that complies with the provisions of these zoning regulations and other applicable ordinances and regulations.

CALIPER—See Sec. 40.2-304(H)(2).

CANOPY—See Sec. 40.2-215.

CANOPY COVER—See Sec. 40.2-304(H)(2).

CANOPY, GASOLINE SALES—See Sec. 40.2-215.

CAR WASH OR AUTO DETAILING—See Sec. 40.2-213.

CARPORT—A roofed structure not more than 75 percent enclosed by walls for the shade and shelter of private passenger vehicles.

CASINO GAMING—See Sec. 40.2-208(E).

CASINO GAMING OPERATOR—See Sec. 40.2-208(E).

CASINO GAMING ESTABLISHMENT—The premises upon which lawful casino gaming is authorized and licensed as provided in Ch. 41 of the Code of Virginia (§ 58.1-4100 et seq.). Casino gaming establishment does not include a riverboat or similar vessel. See Sec. 40.2-208(E).

CATERING SERVICE—See Sec. 40.2-213.

CEMETERY, COLUMBARIUM, MAUSOLEUM—See Sec. 40.2-212.

CERTIFICATE OF OCCUPANCY (CO)—A certificate granted by the city's Building Official which permits the use of a building, or a portion thereof, in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the Building Permit.

CERTIFICATE OF APPROPRIATENESS (COA)—A permit issued by the HPC or DDC granting an applicant approval for the alteration, change, demolition, relocation, excavation, or new construction of contributing site, contributing structure, noncontributing structure, or noncontributing site in a historic district. See Sec. 40.2-536.

CHESAPEAKE BAY PRESERVATION AREA (CBPA) OVERLAY DISTRICT—See Sec. 40.2-208(F).

CHICKENS, BACKYARD—See Sec. 40.2-215.

CHILD DAY CENTER—See Sec. 40.2-212.

CHILD SITTING (BABY SITTING)—See Sec. 40.2-215.

CITY COUNCIL—See Sec. 40.2-501.

CIVIC, SOCIAL, OR FRATERNAL CLUBS OR LODGES—See Sec. 40.2-212.

CIVIC USE—Public parks and playgrounds, municipal buildings including police fire and rescue facilities and all other buildings or properties that are owned by a governmental body.

CO-LOCATE (CO-LOCATION)—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.

COMMERCIAL INDOOR AMUSEMENT—See Sec. 40.2-213.

COMMERCIAL INDOOR SPORTS, RECREATION, AND ENTERTAINMENT—See Sec. 40.2-213.

COMMERCIAL OUTDOOR SPORTS, RECREATION, AND ENTERTAINMENT—See Sec. 40.2-213.

COMMERCIAL VEHICLE—A truck, bus, or other self-propelled vehicle of any type or a container constructed for the transportation of materials used or maintained primarily for business purposes to transport goods, equipment or passengers. This definition is not applicable to a vehicle described as a pickup, van or panel truck that does not exceed one ton in manufacturer's rated capacity and does not exhibit a company name or logo.

COMMUNITY CENTER—See Sec. 40.2-212.

COMMUNITY GARDEN (ACCESSORY USE)—See Sec. 40.2-215.

COMMUNITY GARDEN (PRINCIPAL USE)—See Sec. 40.2-212.

CONSERVATION (C) DISTRICT—See Sec. 40.2-205(C).

CONSTRUCTION—Building, erecting, altering, reconstructing, demolishing, or removing any structure, facility, or addition thereto, including related activities such as land disturbing activities.

CONSTRUCTION/DEMOLITION/DEBRIS (CDD) LANDFILL—See Sec. 40.2-214.

CONSTRUCTION FOOTPRINTS—See Sec. 40.2-304(H)(2).

CONSTRUCTION MATERIALS SALES—See Sec. 40.2-213.

CONSTRUCTION YARD—See Sec. 40.2-214.

CONSUMER REPAIR SERVICE—See Sec. 40.2-213.

CONTRIBUTING PROPERTY—See Sec. 40.2-206(A).

CONVENTION CENTER—See Sec. 40.2-212.

CONVENIENCE STORE WITH GASOLINE SALES—See Sec. 40.2-213.

CORNER VISIBILITY—See "SIGHT TRIANGLE" and Sec. 40.2-218(A)(6).

CORRECTIONAL FACILITY—See Sec. 40.2-212.

CREMATORY—See Sec. 40.2-213.

CRITICAL PROTECT ZONE (CPZ)—See Sec. 40.2-304(H)(2).

CULTURAL FACILITY—See Sec. 40.2-212.

CURBSIDE PICKUP—See Sec. 40.2-301(H).

DECK, ATTACHED—A structure constructed of any materials, without a roof, attached to a building that has an average elevation of 30 inches or greater from finished grade.

DECK, UNATTACHED—A structure constructed of any materials, without a roof, not attached to a building that has an average elevation of 30 inches or greater from finished grade.

DENSITY, GROSS RESIDENTIAL—See Sec. 40.2-218(B)(3).

DENSITY, NET RESIDENTIAL—See Sec. 40.2-218(B)(4).

DEMOLITION—The dismantling or tearing down of all or part of any building or structure and all incidental related operations.

DEVELOPMENT—Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DISTRICT SIZE—See Sec. 40.2-218(B)(5).

DISTRICT, ZONING—An area delineated on the Zoning Map that is subject to area-specific standards and guidelines set forth in the Zoning Ordinance. See Article II. Zoning Districts.

DISTRICT, ZONING COMMERCIAL—See Sec. 40.2-203.

DISTRICT, ZONING DOWNTOWN (D1)—See Sec. 40.2-207.

DISTRICT, ZONING HISTORIC—See Sec. 40.2-206.

DISTRICT, ZONING INDUSTRIAL—See Sec. 40.2-204.

DISTRICT, ZONING OVERLAY—A district established by this Ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district. See Sec. 40.2-208.

DISTRICT, ZONING RESIDENTIAL—See Sec. 40.2-202.

DISTRICT, ZONING SPECIAL—See Sec. 40.2-205.

DOCK—A piling-mounted stationary or floating platform extending into the water.

DOCK, DRY—A dock that can be drained of water to allow the inspection and repair of a ship's hull.

DOMESTIC ANIMAL BREEDING—See Sec. 40.2-213.

DOWNTOWN DESIGN COMMITTEE (DDC)—The Downtown Design Committee for the City of Portsmouth, Virginia appointed by City Council. See Sec. 40.2-504.

DOWNTOWN DESIGN (DD) OVERLAY DISTRICT—See Sec. 40.2-208(C).

DOWNTOWN (D1) DISTRICT—See Sec. 40.2-207.

DOWNTOWN (D1) DISTRICT, T3 SUB-DISTRICT—See Sec. 40.2-207(B)(1)(a).

DOWNTOWN (D1) DISTRICT, T4 SUB-DISTRICT—See Sec. 40.2-207(B)(1)(b).

DOWNTOWN (D1) DISTRICT, T5 SUB-DISTRICT—See Sec. 40.2-207(B)(1)(c).

DOWNTOWN (D1) DISTRICT, T6 SUB-DISTRICT—See Sec. 40.2-207(B)(1)(d).

DOWNTOWN (D1) DISTRICT, SPECIAL DISTRICT (SD) SUB-DISTRICT—See Sec. 40.2-207(B)(1)(e).

DRIP LINE—See Sec. 40.2-304(H)(2).

DRIVE-THROUGH—An accessory use facility designed to enable a person to acquire products or services while remaining in a motor vehicle. See standards in Sec. 40.2-302(B).

DRUG AND ALCOHOL TREATMENT FACILITY—See Sec. 40.2-212.

DWELLING (DWELLING UNIT)—A single unit of a building or portion thereof providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, ACCESSORY—See "ACCESSORY DWELLING UNIT" and Sec. 40.2-217(I)(3)(b).

DWELLING, GROUND FLOOR—See Sec. 40.2-211.

DWELLING, MULTI-FAMILY—See Sec. 40.2-211.

DWELLING, SINGLE-FAMILY, DETACHED—See Sec. 40.2-211.

DWELLING, THREE- TO FOUR-FAMILY—See Sec. 40.2-211.

DWELLING, TOWNHOUSE—See Sec. 40.2-211.

DWELLING, TWO-FAMILY—See Sec. 40.2-211.

DWELLING, UPPER FLOOR—See Sec. 40.2-211.

EASEMENT—A right granted by the property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

EDUCATIONAL FACILITY, COLLEGE/UNIVERSITY—See Sec. 40.2-212.

EDUCATIONAL FACILITY, PRIMARY/SECONDARY—See Sec. 40.2-212.

EFFECTIVE DATE—The effective date of this Ordinance is February 1, 2021.

EGRESS—An exit from a building or site.

EMERGENCY SHELTER—See Sec. 40.2-211.

ENCROACHMENT—The portion of a structure or attachment to the structure that intrudes into a required setback. See Sec. 40.2-218(A)(5).

ENERGY RECOVERY PLANT—See Sec. 40.2-214.

ENTERTAINMENT ESTABLISHMENT—A use that offers some form of entertainment such as dancing, comedy performances, or presenting music that involves human interaction (to include music presented by a disc jockey, karaoke, and live music) for patrons and which possess or apply for an ABC license to serve alcohol. This use excludes adult entertainment establishments. Also excluded are locations with single event ABC licenses. An entertainment establishment can be indoor or outdoor. See Sec. 40.2-217(G)(4)(b).

ENTERTAINMENT (E) OVERLAY DISTRICT—See Sec. 40.2-208(E).

EQUIPMENT SALES AND RENTAL—See Sec. 40.2-213.

ESTABLISHED GRADE—See Sec. 40.2-218(B)(7).

EVENT SPACE/BANQUET HALL—See Sec. 40.2-213.

EXTERIOR LIGHTING—See Sec. 40.2-202(B).

EXTRACTIVE INDUSTRY, ALL USES—See Sec. 40.2-214.

FAÇADE—The entire exterior wall of a building that faces, and is most nearly parallel to, a public or private street. The façade includes the entire building walls, including wall faces, parapets, and visible roof structures of one complete elevation.

FAÇADE, FRONT—The side or elevation of a structure that faces and is most closely parallel to the front lot line that contains the structure's architectural front, excluding any steps, porches, etc.

FAMILY—An individual, or two or more persons related by blood, marriage, or adoption living together as a single dwelling unit; or a group of not more than eight persons not related by blood, marriage, or adoption living together as a single housekeeping unit (Code of Virginia § 15.2-2291).

FAMILY CARE HOME—See Sec. 40.2-211.

FAMILY DAY HOME—See Sec. 40.2-212.

FAMILY HEALTH CARE STRUCTURE, TEMPORARY—See Sec. 40.2-215.

FARMER'S MARKET—Temporary use of the retail sale of fresh fruits and vegetables, and other food and related items, at an indoor or outdoor facility with spaces occupied by several different temporary tenants on a short term or daily basis. This term does not include roadside stands. See Sec. 40.2-217(J).

FEE—See Sec. 40.2-108.

FENCE (WALL)—A close type vertical barrier used to delineate a boundary or act as a barrier or means of protection, confinement, or screening. See Sec. 40.2-305.

FENESTRATION—The arrangement and design of windows and other openings in a building including doors and skylight openings.

FIRST FLOOR—The floor of a building that is at, or first above, average finished grade.

FLEA MARKET—See Sec. 40.2-213.

FLOODPLAIN (FP) OVERLAY DISTRICT—See Sec. 40.2-208(G).

FLOOR AREA—See Sec. 40.2-218(B)(6).

FLOOR AREA, GROSS—The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude basements and attics. The

surface area of tennis courts, swimming pools, driveways, surface parking spaces, decks, patios, and porches, is not included in the total gross floor area.

FLOOR AREA RATIO (FAR)—The ratio of gross floor area of all structures on a lot to total lot area. See Sec. 40.2-218(B)(7).

FOOD TRUCK—See Sec. 32-276 of the City Code as the definition may be amended, moved, or superseded. See Sec. 40.2-217(J).

FOOT-CANDLE—A unit of illumination that falls onto a surface as emitted by an exterior lighting device. See Sec. 40.2-306.

FRONTAGE—The width in linear feet occupied by each separate business or other use or the width in linear feet of a lot that abuts on a public or private street.

FRONTAGE, BUILDING—The linear length of only that portion of a building used by an individual tenant on a separate lot or by an individual tenant in a multiple tenant development that faces a public or private street.

FRONTAGE, LOT—The width in linear feet of a lot that abuts on a public or private street.

FUNERAL HOME—See Sec. 40.2-213.

GAMING OPERATION—See Sec. 40.2-208(E).

GARAGE—A structure for parking vehicles.

GARDEN CENTER—See Sec. 40.2-213.

GASOLINE SALES—See Sec. 40.2-213.

GENERAL INDUSTRIAL SERVICE—See Sec. 40.2-214.

GENERAL MIXED-USE (GMU) DISTRICT—See Sec. 40.2-203(C).

GENERAL RESIDENTIAL (GR) DISTRICT—See Sec. 40.2-202(C).

GLAZING—The portion of an exterior building surface occupied by glass or windows.

GOLF COURSE—See Sec. 40.2-213.

GOVERNMENT FACILITY—See Sec. 40.2-212.

GRADE—The average level of the finished surface of the ground adjacent to the exterior walls of the building. See Sec. 40.2-218(C)(3).

GREENHOUSE (ACCESSORY USE)—See Sec. 40.2-215.

GREENHOUSE (PRINCIPAL USE)—See Sec. 40.2-213.

GREENWAY—A linear greenbelt linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and area immediately adjacent to the pathway.

GROUP HOME—See Sec. 40.2-211.

GUIDANCE SERVICES—See Sec. 40.2-212.

HALFWAY HOUSE—See Sec. 40.2-211.

HAZARDOUS MATERIAL—Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or

to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous wastes.

HEAVY EQUIPMENT SALES AND SERVICE—See Sec. 40.2-213.

HEIGHT—See Sec. 40.2-218(C).

HELICOPTER LANDING FACILITY—See Sec. 40.2-212.

HIGH INTENSITY MIXED-USE (MU-H) DISTRICT—See Sec. 40.2-203(D).

HISTORIC DISTRICT—A geographically definable area consisting of public and/or private property within the city, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. An historic district shall further mean an area designated by City Council as an historic district under this Ordinance. See Sec. 40.2-206.

HISTORIC LANDMARK—One or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. Contributing properties within a registered district are historic landmarks by definition (Code of Virginia § 10.1-2200).

HISTORIC LIMITED BUSINESS (HLB) SUB-DISTRICT—See Sec. 40.2-206(C).

HISTORIC LIMITED OFFICE (HLO) SUB-DISTRICT—See Sec. 40.2-206(C).

HISTORIC PRESERVATION COMMISSION (HPC)—The Historic Preservation Commission for the City of Portsmouth, Virginia appointed by City Council. See Sec. 40.2-504.

HISTORIC RESIDENTIAL (HR) SUB-DISTRICT—See Sec. 40.2-206(C).

HOMELESS SHELTER—See Sec. 40.2-211.

HOME OCCUPATION—See Sec. 40.2-215.

HOSPITAL—See Sec. 40.2-212.

HOTEL OR MOTEL—See Sec. 40.2-213.

HOTEL OR MOTEL, EXTENDED STAY—See Sec. 40.2-213.

HOTEL OR MOTEL, FULL SERVICE—See Sec. 40.2-213.

INCINERATOR—See Sec. 40.2-214.

INDUSTRIAL (IN) DISTRICT—See Sec. 40.2-204(C).

INDUSTRIAL, HAZARDOUS—See Sec. 40.2-214.

INGRESS—Access or entry to a building or site.

INNOVATION OVERLAY (I) DISTRICT—See Sec. 40.2-208(D).

JUNKYARD—See Sec. 40.2-214.

KENNEL, INDOOR—See Sec. 40.2-213.

KENNEL, OUTDOOR—See Sec. 40.2-213.

LABORATORY—See Sec. 40.2-213.

LAND-DISTURBING ACTIVITY—Any movement of earth or substrate, manually or mechanically, including, but not limited to, any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes, for which any permit or approval is required under the provisions of the City Code.

LANDSCAPE PLAN—See Sec. 40.2-304(C)(2).

LANDSCAPE PLAN, ALTERNATIVE—See Sec. 40.2-304(I).

LANDSCAPING—See Sec. 40.2-304.

LANDSCAPING ISLAND—See Sec. 40.2-304(D)(3)(b)(iii).

LANDSCAPING, SITE—See Sec. 40.2-304(G).

LAUNDRY, DRY CLEANING, AND CARPET CLEANING FACILITY—See Sec. 40.2-214.

LAUNDRY, SELF-SERVICE—See Sec. 40.2-213.

LIGHT INDUSTRIAL (IL) DISTRICT—See Sec. 40.2-204(B).

LIMITED FUEL/OIL/BOTTLED GAS DISTRIBUTER—See Sec. 40.2-215.

LOADING SPACE, OFF-STREET—An off-street parking space used for the temporary parking of motor vehicles for deliveries and for the loading and unloading of goods. See Sec. 40.2-302.

LOT—A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. The terms "lot" and "parcel" are used interchangeably in this Ordinance.

LOT AREA—The total area, measured on a horizontal plane, included within lot lines and excluding areas of the lot that are major utility easements (e.g. gas pipeline, electric, etc.), wetlands, and Chesapeake Bay RPA features (other than the buffer). For purposes of this Ordinance, "lot area" and "lot size" shall have the same meaning. See Sec. 40.2-218(A).

LOT, CORNER—A lot abutting on two or more streets at their intersection, regardless of whether such streets intersect at right angles.

LOT CONSOLIDATION—The removal of lot lines between contiguous parcels by recordation of a plat in the land records. See City Code Ch. 33.1.

LOT, DOUBLE-FRONTAGE—An interior lot having frontage on more than one street.

LOT, FLAG—A lot which has a narrow appendage, not less than 16 feet in width, providing the required street frontage and through which access is provided to an enlarged portion of the lot typically located behind another lot that abuts the street. See Sec. 40.2-218(E).

LOT, FRONT OF—The front of a lot shall be considered to be that boundary of the lot which abuts on a public street. An alley shall never be considered the front of a lot. For a corner lot, the front shall be the shorter of the two frontages OR for commercial and industrial uses, the front shall be the predominant frontage. For a corner lot with equal frontage on two or more streets AND for a double frontage lot, the lot shall be considered to front on the street on which the greatest number of lots have been platted within the same block. Where a front of lot is not obviously evident through this determination process, the Zoning Administrator shall determine the front of lot. See Sec. 40.2-218(D).

LOT FRONTAGE—See "FRONTAGE, LOT."

LOT, INTERIOR—Any lot other than a corner lot.

LOT LINE—The property line bounding the lot.

LOT OF RECORD—A lot legally created in the land records by recordation of a plat at any time or by deed recorded (1) prior to the adoption of the City's first subdivision ordinance on March 27, 1956 or (2) in the case of land annexed by Portsmouth after March 27, 1956, prior to annexation and prior to the adoption of a subdivision ordinance by Norfolk County.

LOT, NONCONFORMING—See "NONCONFORMING LOT" and Sec. 40.2-404.

LOT SIZE—See "LOT AREA" and Sec. 40.2-218(A)(1).

LOT WIDTH—The mean horizontal distance between side lot lines. See Sec. 40.2-218(A)(2).

LOT, ZONE—A parcel or parcels of land under common ownership that has a sufficient size to meet minimum zoning requirements for the base zoning district where it is located.

MAJOR RECREATIONAL EQUIPMENT—Major recreational equipment is defined for the purposes of this Ordinance as including recreational vehicles, boats and boat trailers, combinations thereof and other similar equipment, and cases and boxes used for transporting recreational equipment, whether occupied by such equipment or not.

MANUFACTURED HOME—A structure that complies with Code of Virginia § 8.9A-102(53). See Sec. 40.2-406.

MANUFACTURING, HEAVY—See Sec. 40.2-214.

MANUFACTURING, LIGHT—See Sec. 40.2-214.

MARINA, COMMERCIAL—See Sec. 40.2-213.

MARINA, PRIVATE (ACCESSORY USE)—See Sec. 40.2-215.

MARINA, PRIVATE (PRINCIPAL USE)—See Sec. 40.2-213.

MARQUEE—A permanent roof-like shelter constructed of durable material that is supported solely by the building to which it is attached, and projects from the building face. A marquee is generally located at the main entrance to a building. This term does not include a canopy or an awning.

MASTER-PLANNED (MP) OVERLAY DISTRICT—See Sec. 40.2-208(B).

MATERIAL CHANGE IN APPEARANCE—See Sec. 40.2-206(A).

MEDICAL OR DENTAL CLINIC/OFFICE—See Sec. 40.2-212.

MEDICAL TREATMENT FACILITY—See Sec. 40.2-212.

MICRO-BREWERY/DISTILLERY—See Sec. 40.2-213.

MIXED-USE DEVELOPMENT—Property that incorporates two or more different uses, such as (but not limited to) residential, commercial, or industrial, within a single development. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

MOTOR VEHICLE, INOPERATIVE—Any motor vehicle, trailer or semitrailer which is not in operating condition; or which 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 the operation of the vehicle; or on which a valid license plate or a valid inspection decal is not displayed.

MULTI-FAMILY URBAN RESIDENTIAL (UR-M) DISTRICT—See Sec. 40.2-202(E).

MULTI-TENANT RETAIL CENTER—See "SHOPPING CENTER" and Sec. 40.2-301(E)(6).

NATURAL DISASTER—Any event in which damage to a nonconforming use or structure is caused by flooding, hail, wind event or wind storm, lightning strike, tornado damage, explosion, falling trees, or falling tree limbs.

NEIGHBORHOOD MIXED-USE (NMU) DISTRICT—See Sec. 40.2-203(B).

NEIGHBORHOOD RESIDENTIAL (NR) DISTRICT—See Sec. 40.2-202(B).

NONCONFORMING LOT—A lot that was lawfully created but no longer conforms to the applicable standards for lots due to a subsequent revision or amendment of this Ordinance. See Sec. 40.2-404.

NONCONFORMING PARKING OR LOADING FACILITIES—See Sec. 40.2-301(E)(5).

NONCONFORMING SIGNS—A sign that was lawfully established but no longer conforms to the applicable standards for signs due to a subsequent revision or amendment of this Ordinance. See Sec. 40.2-405.

NONCONFORMING STRUCTURE OR BUILDING—A structure or building that was lawfully established but no longer conforms to the applicable standards for buildings or structures due to subsequent revision or amendment of this Ordinance. See Sec. 40.2-403.

NONCONFORMING USE—A use that was lawfully established but no longer conforms to the applicable standards for buildings or structures due to subsequent revision or amendment of this Ordinance. See Sec. 40.2-402.

NONCONTRIBUTING PROPERTY—See Sec. 40.2-206(A).

NOTICE OF VIOLATION—A notice indicating an alleged violation of this Ordinance. See Sec. 40.2-552.

OCCUPANCY—The period during which one owns, rents, uses, or occupies a certain premises or land.

OFFICE, GENERAL—See Sec. 40.2-213.

OFFICE, PROFESSIONAL SERVICES—See Sec. 40.2-213.

ON-PREMISES MOBILE CASINO GAMING—See Sec. 40.2-208(E).

OPACITY—A measurement indicating the degree of obscuration of light or visibility.

OPEN SPACE—Space suitable for recreation, gardens or landscaping. Such space must be free of vehicle traffic and parking, and be readily accessible to all those for whom it is required.

OPEN SPACE SET-ASIDE—Portion of a proposed development required for reservation as permanent open space by Sec. 40.2-308.

OUTDOOR DISPLAY AND SALES—See Sec. 40.2-215.

OUTDOOR STORAGE (ACCESSORY USE)—See Sec. 40.2-215.

OUTDOOR STORAGE (PRINCIPAL USE)—See Sec. 40.2-214.

OUTPARCEL—A portion of land in a subdivision, shopping center, or other development that does not contain the principal building associated with the development, and that is intended for development of one or more, smaller, independent buildings usually located adjacent to a development's street frontage. Outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the principal building or buildings.

PARAPET—A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

PARCEL—A designated lot, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. The terms "lot" and "parcel" are used interchangeably in this Ordinance.

PARK, PUBLIC AND PRIVATE—See Sec. 40.2-212.

PARK AND RIDE FACILITY—See Sec. 40.2-213.

PARKING, BICYCLE—See "BICYCLE PARKING" and Sec. 40.2-303.

PARKING DEMAND STUDY—See Sec. 40.2-301(F)(1).

PARKING FACILITY—See Sec. 40.2-213.

PARKING LOT—The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas. See Sec. 40.2-301.

PARKING LOT DRIVE AISLE—A vehicular access strip located within an off-street parking or vehicular use area that serves individual parking stalls and driveways. See Sec. 40.2-301(M).

PARKING PLAN, ALTERNATIVE—See Sec. 40.2-301(F).

PARKING, SHARED—Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s). See Sec. 40.2-301(F)(2).

PARKING SPACE—A space that is designated for the parking of one motor vehicle. See Sec. 40.2-301(M).

PARKING SPACE, ACCESSIBLE—A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose. See Sec. 40.2-301(L).

PARKING SPACE, OFF-STREET—A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle. See Sec. 40.2-301(E).

PARKING SPACE, ON-STREET—A location or area within the right-of-way of a public or private street that is set-aside or designated for the parking of vehicles. See Sec. 40.2-301(F)(4).

PARKING STRUCTURE—A structure primarily designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building.

PARKING, OFF-SITE—An off-street parking area provided on a different parcel than the use it is intended to serve. See Sec. 40.2-301(F)(3).

PARKING, TANDEM—A parking space within a group of two or more parking spaces arranged one behind the other. See Sec. 40.2-301(M)(6).

PARKING, VALET—The provision of parking for vehicles whereby vehicles are parked and un-parked in a parking area, parking lot or any parking structure by a person other than the owner or operator of the vehicle. See Sec. 40.2-301(F)(5).

PASSENGER TERMINAL, SURFACE TRANSPORTATION—See Sec. 40.2-212.

PATIO—A horizontal flat surface constructed of any materials, without a roof, which has an average elevation of less than 30 inches from finished grade.

PAVED SURFACE—Brick, concrete, asphalt, or similar improved surface acceptable by the City Engineer placed on land.

PERSONAL SERVICES—See Sec. 40.2-213.

PERSONAL IMPROVEMENT SERVICES—See Sec. 40.2-213.

PET CREMATORY—See Sec. 40.2-215.

PERMITTED USE—Use or activity, which because of its nature and impact, is allowed to occur within a designated zoning district as a use by right. See Sec. 40.2-216.

PLANNING COMMISSION—The Planning Commission for the City of Portsmouth, Virginia appointed by City Council. See Sec. 40.2-502.

PLAT—A map or plan for a tract or parcel of land meeting the requirements of Ch. 33.1 of the City Code, which is to be or which has been subdivided.

PORCH—A roofed structure not more than 75 percent enclosed by walls, attached to the main building, and not heated or cooled.

PORTABLE STORAGE CONTAINER—A container typically intended for transport by large truck, train, or ship, that is used for the temporary storage and or transport of personal property. See Sec. 40.2-217(J).

PORT—A facility for the docking, loading, or unloading of ships, barges, or boats that primarily transport freight.

PORT FACILITY—See Sec. 40.2-214.

PORTICO—A large porch usually with a pediment generally associated with an entrance, supported by columns.

PRODUCE STAND—See Sec. 40.2-215.

PROFFER—Reasonable conditions supplemental to or modifying the regulations provided for a particular zoning district that are voluntarily submitted by an applicant/property owner in connection with an application for a Zoning Map Amendment. See Sec. 40.2-532(E) Provisions for Conditional Zoning.

PSYCHIATRIC TREATMENT FACILITY—See Sec. 40.2-212.

PUBLIC HEARING—See Sec. 40.2-521(B).

PUBLIC NOTICE—See Sec. 40.2-521(A).

RADIO AND TELEVISION BROADCASTING STUDIO—See Sec. 40.2-214.

RECREATION FACILITY, PRIVATE—See Sec. 40.2-213.

RECREATIONAL VEHICLE—A vehicle that is:

1. Built on a single chassis;
2. Designed to be self-propelled or permanently towable by a light-duty truck; and
3. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

This includes vehicles such as travel trailers, motor homes, boats, houseboats, and campers.

RECREATIONAL VEHICLE SALES AND SERVICE—See Sec. 40.2-213.

RECYCLING CENTER—See Sec. 40.2-214.

RECYCLING DROP-OFF STATION—See Sec. 40.2-215.

REHABILITATION—See Sec. 40.2-206(A).

RELIGIOUS INSTITUTION—A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social, educational, and recreational activities that is maintained and controlled by a religious group. See Sec. 40.2-212.

RESEARCH AND DEVELOPMENT—See Sec. 40.2-214.

RESILIENT SITE AND BUILDING FEATURES—See Sec. 40.2-310.

RESTAURANT—See Sec. 40.2-213.

RETAIL SALES—See Sec. 40.2-213.

RETAIL SALES, LARGE—See Sec. 40.2-213.

REZONING—See "ZONING TEXT & MAP AMENDMENT." See Sec. 40.2-532.

RIGHT-OF-WAY (ROW)—Land dedicated, deeded, used, or to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses. Right-of-way also means the area between lot lines that generally contains only the street pavement, sidewalk, grass areas, and underground or aboveground utilities.

ROOFLINE—The highest edge of the roof or the top of the parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

SALVAGE CENTER—See Sec. 40.2-214.

SATELLITE DISH ANTENNA—A round or parabolic antenna and its supporting structure for the purposes of sending and/or receiving radio or electromagnetic signals.

SCREENING—See Sec. 40.2-304(F).

SECURITY PLAN—See Sec. 40.2-306(F).

SELF-SERVICE STORAGE FACILITY—See Sec. 40.2-214.

SENIOR CENTER—See Sec. 40.2-212.

SETBACK AVERAGING—See Sec. 40.2-218(A)(3).

SETBACK—The minimum distance by which any building or structure must be separated from a lot line. See Sec. 40.2-218(G).

SHIPPING CONTAINER—A portable, weather-resistant receptacle designed for use in the multi-modal shipment of goods, wares or merchandise, including a receptacle designed for the transport of goods. The terms "freight shipping container" and "shipping container" are used interchangeably in this Ordinance.

SHIPPING CONTAINER/CHASSIS STORAGE YARD—See Sec. 40.2-214.

SHOOTING RANGE, INDOOR—See Sec. 40.2-213.

SHOPPING CENTER—A group of primarily commercial establishments planned, constructed and managed as a total entity with shared access, customer and employee parking provided onsite, provision of goods delivery separated from customer access, aesthetic considerations and protection from the elements. A shopping center may be on a single parcel or may be on multiple parcels of land. The terms "shopping center" and "multi-tenant retail center" are used interchangeably in this Ordinance. See Sec. 40.2-301(E)(6).

SHRUB—See Sec. 40.2-304(C)(3)(c).

SIGHT TRIANGLE—The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines. See Sec. 40.2-218(G).

SIGN—See Sec. 40.2-307(A) for sign definitions.

SIGN OVERLAY DISTRICT, ALTERNATIVE—See Sec. 40.2-307(N).

SIGNAGE PLAN, ALTERNATIVE—See Sec. 40.2-307(M).

SINGLE ROOM OCCUPANCY—See Sec. 40.2-211.

SITE PLAN—A detailed engineering drawing of the proposed improvements required in the development of a given lot in accordance with Article IV, Division IV Site Plans.

SOLAR ENERGY PROJECT—See Sec. 40.2-215.

SOLAR ENERGY SYSTEM—See Sec. 40.2-214.

SPECIAL EXCEPTION—A permit approved, approved with conditions, or denied by the BZA in accordance with Sec. 40.2-535 Special Exceptions.

SPECIFIED ANATOMICAL AREAS—This means: (a) Less than completely or opaquely covered: (i) Human genitals; (ii) Buttocks; (iii) Human breasts below a point immediately above the top of the areola; and (b) Human genitals in a discernibly turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES—This means: (a) Humans genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; (c) Fondling or erotic touching of human genitals, buttocks, or breasts.

SPORTS BETTING—See Sec. 40.2-208(E).

SQUARE FEET, GROSS—All enclosed, usable space within a structure, including unfinished service areas such as stairwells and elevators.

STACKING AREA—A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area. See Sec. 40.2-302.

STOOP—A platform, without a roof, located at the entrance of a building with sufficient area to facilitate the ingress and egress to the building.

STORAGE OR PARKING OF HEAVY TRUCKS, CONSTRUCTION EQUIPMENT, MAJOR RECREATIONAL EQUIPMENT OR MOBILE HOME—See Sec. 40.2-215.

STREET, PRIVATE—A dedicated strip of land that is privately maintained for vehicular or pedestrian traffic and that is not an alley.

STREET, PUBLIC—A dedicated strip of land that is publicly maintained for vehicular or pedestrian traffic and that is not an alley.

STREETSCAPE—The combination of buildings, uses, landscaping, and furniture located in the area that may either abut or be contained within a public or private street right-of-way or access way that creates the visual image of the street.

STRUCTURE—Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building that can be used for residential, business, commercial, or office purposes, either temporarily or permanently. Also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

STRUCTURE, HISTORIC—See Sec. 40.2-206(A).

STUDIO, FINE ARTS—See Sec. 40.2-213.

SWIMMING POOL (ACCESSORY STRUCTURE)—See Sec. 40.2-215.

SWIMMING POOL (PRINCIPAL USE)—See Sec. 40.2-213.

TAXICAB SERVICE—See Sec. 40.2-212.

TELECOMMUNICATIONS TOWER, FREESTANDING—See Sec. 40.2-212.

TEMPORARY USE PERMIT—A permit, approved, approved with condition(s), or denied by the Zoning Administrator for a limited period of time in accordance with Sec. 40.2-531 Temporary Use Permits.

TICKET COURIER SERVICE—See Sec. 40.2-208(E).

TRAFFIC IMPACT ANALYSIS (TIA)—A general study of the degree or extent to which proposed land use developments, and the traffic they are expected to generate, will affect the adjacent or surrounding transportation system. See Sec. 40.2-545.

TRANSFER STATION—See Sec. 40.2-214.

TREE—See Sec. 40.2-304(H)(2).

TREE, CANOPY—See Sec. 40.2-304(C)(3)(a).

TREE CANOPY COVERAGE—See Sec. 40.2-304(H).

TREE, MULTI-STEM—See Sec. 40.2-304(H)(2).

TREE PROTECTION—See Sec. 40.2-304(K).

TREE, UNDERSTORY—See Sec. 40.2-304(C)(3)(b).

TRUCK STOP—See Sec. 40.2-214.

UNDERGROUND UTILITIES—See Sec. 40.2-309.

URBAN AGRICULTURE (ACCESSORY STRUCTURE)—See Sec. 40.2-215.

URBAN AGRICULTURE (PRINCIPAL USE)—See Sec. 40.2-214.

URBAN RESIDENTIAL (UR) DISTRICT—See Sec. 40.2-202(D).

USE—The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied or maintained.

USE, ACCESSORY—A use that is customarily incidental, and subordinate to the principal use of land or buildings and located on the same lot. See Sec. 40.2-217(I).

USE, CHANGE OF—A change from one category in the Use Table to another or the addition of a new category of use to an existing use.

USE, COMMERCIAL—See Sec. 40.2-213.

USE, INDUSTRIAL—See Sec. 40.2-214.

USE, NONCONFORMING—See "NONCONFORMING USE"

USE, PRINCIPAL—The main use or uses of land or structures as distinguished from a secondary or accessory use. See Sec. 40.2-209.

USE, PUBLIC AND INSTITUTIONAL—See Sec. 40.2-212.

USE, RESIDENTIAL—See Sec. 40.2-211.

USE, TEMPORARY—A use that is not so recurring in nature as to constitute a permanent use. See Sec. 40.2-217(J).

USE PERMIT—A permit, approved, approved with condition(s), or denied by the City Council in accordance with Sec. 40.2-533 Use Permits.

USE-SPECIFIC STANDARDS—See Sec. 40.2-217.

USE TABLE—See Sec. 40.2-216.

UTILITY, MAJOR—See Sec. 40.2-212.

UTILITY, MINOR—See Sec. 40.2-212.

VALET PARKING—See "PARKING, VALET".

VARIANCE—A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure that is approved, approved with condition(s), or denied by the BZA in accordance with Sec. 40.2-534 Variances. It shall not include a change in use, which change shall be accomplished by a Rezoning.

VEHICLE PARTS/SUPPLY, RETAIL—See Sec. 40.2-213.

VEHICLE REPAIR AND SERVICING, MINOR—See Sec. 40.2-213.

VEHICLE REPAIR AND SERVICING, MAJOR—See Sec. 40.2-213.

VEHICLE SALES—See Sec. 40.2-213.

VEHICLE WRECKER SERVICE—See Sec. 40.2-213.

VEHICULAR USE AREA—All vehicular parking areas, stacking areas, methods of vehicular ingress and egress, internal aisles, and loading spaces within a parcel or development. See Sec. 40.2-301.

VEHICULAR USE AREA LANDSCAPING—See Sec. 40.2-304(D).

VENDING MACHINE—Any unattended self-service device that dispenses anything of value including food, beverage, goods, wares, merchandise, or services.

VENDING USES—See Sec. 40.2-213.

VESTED RIGHT—See Sec. 40.2-401.

VETERINARY CLINIC—See Sec. 40.2-213.

VOLUNTARY EXCLUSION PROGRAM—See Sec. 40.2-208(E).

WALL PACK LIGHT—See Sec. 40.2-306(E).

WAREHOUSE—See Sec. 40.2-214.

WASTE COMPOSTING—See Sec. 40.2-214.

WATERFRONT (WF) DISTRICT—See Sec. 40.2-205(B).

WETLANDS—Waters of the United States, including land where, at least some of the time, water saturates the soil enough to result in a hydric soil (soil that is characterized by an absence of free oxygen some or all of the time). Wetlands limits must be determined in accordance with the current federally approved method of delineation. See City Code Ch. 39.

WIND ENERGY SYSTEM—See Sec. 40.2-214.

WIND TURBINE, MICRO—See Sec. 40.2-215.

WINERY/CIDERY—See Sec. 40.2-213.

YARD—An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided by this Zoning Ordinance. A yard extends the full width of the lot between the building and the lot line.

YARD, FRONT—An open space on the same lot as a building between the front façade and the front lot line, and extending across the full width of the lot. For a corner lot, the front shall be the narrower of the two frontages OR for commercial and industrial uses, the front shall be the predominant frontage. For a corner lot with equal frontage on two or more streets AND for a double frontage lot, the front yard shall be considered the frontage on the street on which the greatest number of lots have been platted within the same block. Where a front yard is not obviously evident through this determination process, the Zoning Administrator shall determine the front yard.

YARD, REAR—An open space on the same lot as a building between the rear façade of the building and the rear line of the lot and extending the full width of the lot. For a double frontage lot, the rear yard shall be considered the yard opposite from the predetermined front of the lot.

YARD, SIDE—An open space on the same lot as a building between the side line of the building and the side line of the lot, and extending from the front yard line to the rear yard line. The side yard runs from the front yard line to the required rear yard line. On corner lots, the side yards shall run from the point where side yard lines intersect to front yard lines.

YOUTH CLUB FACILITY—See Sec. 40.2-212.

ZERO SIDE LOT LINE—See Sec. 40.2-218(A)(4).

ZONING ADMINISTRATOR—A staff member of the Portsmouth Department of Planning whose primary responsibility is to administer and enforce the Zoning Ordinance. See Sec. 40.2-500.

ZONING DISTRICT—See "DISTRICT, ZONING" and Article II. ? Zoning Districts.

ZONING MAP—The official, adopted map or maps which are part of this Ordinance, and delineate the boundaries of each zoning district in Article II. See Sec. 40.2-104.

ZONING MAP AMENDMENT (REZONING)—A change in the zoning or district boundaries of one or more parcels of the Zoning Map reviewed and approved or denied by the City Council in accordance with Sec. 40.2-532 Zoning Text and Zoning Map Amendment (Rezoning).

ZONING PERMIT—A permit approved, approved with conditions, or denied by the Zoning Administrator, as required in Sec. 40.2-530 Zoning Permit.

ZONING TEXT AMENDMENT—A zoning revision, change, addition, or deletion in the text of this Ordinance reviewed and approved or denied by the City Council in accordance with Sec. 40.2-532 Zoning Text and Zoning Map Amendment (Rezoning).

(Ord. No. 2021-94 , § 1(Ex. A), 10-12-2021)

APPENDIX A

FEE SCHEDULE

This appendix contains the various fees, charges and rates referred to in the listed section of this Code.

CHAPTER 3. AMUSEMENTS

Code Section	Description	Fee
3-103	Permit application fee for commercial recreation center	\$ 50.00
3-301(f)(1)	Permit to operate a body art studio, per year	1,500.00
3-301(f)(2)	Plan review fee for initial opening of body art studio or for changes requiring a review of the construction plans	200.00

CHAPTER 4. ANIMALS

Code Section	Description	Fee
4-8	Cost for cremation or burial of dead animals, not to exceed	\$75.00
4-8	Cost for cremation or burial of dead fowl, not to exceed	5.00
4-32(c)	Animal impoundment fee for animals running at large, first day	12.00
	Each additional day of impoundment or part thereof, per day	5.00
4-33(i)	Permit fee for wild exotic or poisonous animals	50.00
4-33(i)	Annual renewal of permit fee for wild exotic or poisonous animals	25.00
4-33.1(d)	Fee for dangerous dog registration certificate	150.00
	Annual renewal fee	85.00
4-71	Fee for duplicate dog license tag	1.00
4-97(a)	Impoundment fee for unvaccinated dogs or cats, first day	3.00
	Each additional day of impoundment or part thereof	1.00
4-98(c)	Fee for quarantine of animal, per day or fraction thereof	3.00

(Ord. No. 2013-03, § 2, 1-8-2013)

CHAPTER 5. BICYCLES

Code Section	Description	Fee
5-29	Bicycle registration fee	\$2.00
5-33	Fee for replacement of lost or mutilated bicycle registration decal	0.50
5-34	Fee for transfer of bicycle registration	0.50
5-38	Storage charge for impounded unregistered bicycle	5.00

CHAPTER 6. BOATS AND WATERWAYS

Code Section	Description	Fee
6-32	License fee for registration of pleasure boats or watercraft, per boat or watercraft	\$20.00

CHAPTER 7. BUILDINGS AND BUILDING REGULATIONS

Code Section	Description	Fee
7-101	Reinspection fee	\$ 50.00
7-102	Administrative fee for failure to obtain permit; inspection, certificate of occupancy	150.00
7-103(a)	Fee for certificate of occupancy for existing structure	50.00
7-103(b)	Fee for temporary certificate of occupancy (residential)	50.00
7-103(b)	Fee for temporary certificate of occupancy (commercial)	100.00
7-103(c)	Fee for first renewal of temporary certificate of occupancy (residential)	100.00
7-103(c)	Fee for first renewal of temporary certificate of occupancy (commercial)	200.00
7-104	Fees for review of construction plans	
	(1)	New construction and additions to one-family and two-family buildings:
	a. Under 2,000 square feet	50.00
	b. Over 2,000 square feet	80.00
	(2)	All other structures:
	a. 0 to 2,499 square feet	80.00
	b. 2,500 square feet to 4,999 square feet	120.00
	c. 5,000 square feet to 9,999 square feet	160.00
	d. 10,000 square feet to 74,999 square feet	180.00
	e. 75,000 square feet and up	240.00
	(3)	Existing structures when altered and area of the building contains 3,000 square feet or more, or, exceeds 2½ stories in height; review of electrical, fire protection, mechanical,

				or plumbing plans
7-105	Fee for appeal to any division of the department of the building official and/or code official			100.00
7-131(1)	Building permit and inspection fees, minimum			50.00
7-131(2)	Fee for additional reinspections			50.00
7-132	Fee schedule for building permits			
			(1)	All Commercial Buildings:
	a.	For 100 square feet up to and including 999 square feet, the fee shall be \$10.00 per 100 square feet or fraction thereof. The minimum fee shall be \$50.00.		
	b.	For 1,000 square feet up to and including 4,999 square feet, the fee shall be \$100.00 for the first 1,000 square feet plus \$9.00 per 100 square feet or fraction thereof.		
	c.	For 5,000 square feet or more, the fee shall be \$460.00 for the first 5,000 square feet plus \$8.00 per 100 square feet or fraction thereof without limit.		
			(2)	Use Group O— Residential Garages, Porches, Decks and Similar Accessory Residential Buildings:
	a.	For up to and including 999 square feet, the fee shall be \$7.00 per 100 square feet or fraction thereof. The minimum fee shall be \$50.00.		
	b.	For 1,000 square feet or more, the fee shall be \$70.00 for the first 1,000 square feet and \$5.00 per 100 square feet or fraction thereof.		.
			(3)	Residential Use Group R5, Single Family Residence, Duplex, or Townhome:
	a.	For up to and including 1,999 square feet, the fee shall be \$8.00 per 100 square feet, or fraction thereof. The minimum fee shall be \$50.00.		
	b.	From 2,000 square feet up to and including 4,999 square feet, the fee shall be \$160.00 for the first 2,000 square feet plus \$7.00 per 100 square feet or fraction thereof.		

		c.	For 5,000 square feet or more, the fee shall be \$370.00 for the first 5,000 square feet, plus \$6.00 per 100 square feet or fraction thereof, without limit.	
			(4)	Use Group T:
		a.	Alterations, Repairs, Private Piers, Bulkheads, Pools, Walls, Bay Windows, Dormers, Roofing, Siding, Commercial Interior Finish, Miscellaneous Structures:	
		1.	The minimum fee shall be \$50.00.	
		2.	For a valuation up to \$4,999.00 the fee shall be \$20.00 per \$1,000.00 or fraction thereof.	
		3.	For a valuation from \$5,000.00, up to and including \$19,999.00 the fee shall be \$100.00 for the first \$5,000.00 plus \$10.00 for each additional \$1,000.00 or fraction thereof.	
		4.	For a valuation from \$20,000.00 up to and including \$99,999.00, the fee shall be \$250.00 for the first \$20,000.00 plus \$5.00 for each additional \$1,000.00 or fraction thereof.	
		5.	For a valuation of over \$100,000.00, the fee shall be \$625.00 for the first \$100,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, without limit.	
		b.	Tents, Mobile Homes and Other Temporary Structures:	
		1.	For tents and other temporary structures, the fee shall be \$50.00 each.	
		2.	For the new placement of mobile homes on a site including the tie-down and foundation, the fee shall be \$50.00.	
		3.	For the replacement of mobile homes on a site including the tie-down and foundation, the fee shall be \$50.00.	
7-133	Fee schedule for electrical permits and inspections:			
7-133(a)(1)	Minimum permit fee			\$50.00
7-133(a)(2)a.	Temporary service, 60 amperes			50.00
7-133(a)(2)b.	Temporary service, 100 amperes			50.00

7-133(a)(2)c.	Temporary service for construction regardless of amperage	50.00
7-133(a)(3)a.	Fees for new services whether single- or three-phase include all circuits, motors, generators and other derivations of an electrical system. Single-phase fee is \$25.00 per 50 amperes.	
7-133(a)(3)b.	Three-phase service fee is \$30.00 per 50 amperes for first 1,000 amperes and \$15.00 per 50 amperes for remaining amperes after 1,000.	
7-133(a)(4)a.	Changes of service (old): For single phase service. Fees for changes of service (pay for change of service and any additional circuits added or worked on) are \$12.50 per 50 amperes for single phase. For circuit fee, see additions or repairs schedule below.	
7-133(a)(4)b.	Changes of service (old): For three phase service. Fees for changes of service are \$15.00 per 50 amperes for the first 1,000 amperes and \$10.00 per 50 amperes for the remaining amperes after 1,000.	
7-133(a)(5)	Additions or repairs: For each piece of equipment connected and for each circuit or feeder installed, extended, relocated or repaired the fee shall be:	

Amperes	Fee Conductor Size	(Per Circuit)
0—30	#14, 12, 10	\$5.00
31—60	#8, 4	6.00
61—100	#4, 3, 2	7.00
101—200	#1, 0, 00, 000	12.50
Over 200	Over 000	18.00
\$5.00 per meter base		

7-133(a)(6)	Miscellaneous swimming pool fees:	
	Pool inspection	\$50.00
	Pool grounding	50.00
	Inspection for temporary release	50.00
7-134	Fee schedule for plumbing permits and inspections:	
7-134(a)	For each plumbing permit issued, permit fee	50.00
7-134(b)(1)	For each plumbing fixture or trap placed or replaced, or removed from one place to another, and for each place roughed-in for a fixture	6.00
7-134(b)(2)	For each house sewer	6.00
7-134(b)(3)	For renewal or replacement of existing house sewer	6.00
7-134(b)(4)	For each house water service	6.00
7-134(b)(5)	For renewal or replacement of existing house water service	6.00
7-134(b)(6)	For each water heater	6.00
7-134(b)(7)	For replacement of water heaters	6.00
7-134(b)(8)	For roof drains or internal rain leaders	6.00

7-134(b)(9)	A per trip fee will be charged for site work inspections	0.00
7-135	Fee schedule for mechanical permits and inspections:	
7-135(a)	For the installation in new construction of mechanical systems or equipment, storage tanks for flammable liquids or gases, and fire suppression systems, the permit fee shall be at the rate of 1.1 percent of the current value of all service, labor, materials and equipment; minimum fee 50.00	
7-135(b)	For the replacement, repair or alteration of mechanical systems or equipment, storage tanks for flammable liquids or gases, or fire suppression systems, in existing buildings or structures, or the removal of storage tanks, the fee shall be at the rate of 1.1 percent of the value of all service, labor, materials and equipment, minimum fee 25.00	
7-135(c)	For the installation of one kitchen hood vent and not more than three bathroom vents in a single-family dwelling	65.00
7-135(d)	For the installation of standpipes, the fee shall be \$50.00 for each riser, plus \$2.50 for each floor served by that riser	
7-135(e)	For amusement ride permits and inspections:	
	For each small mechanical ride or inflatable amusement device covered by a permit	35.00
	Annual inspection of inflatable amusement device	50.00
	For each circular or flat ride less than 20 feet in height	55.00
	For each spectacular ride that cannot be inspected as a circular or flat ride due to complexity or height	75.00
	For each coaster exceeding 30 feet in height	200.00
	For each generator other than small portable generators	165.00
	For all other structures at carnivals, the permit fee shall \$15.00 per structure with inspection required.	
7-136	Fee schedule for elevator permits and inspections: For periodic inspections made on elevators, dumbwaiters, moving stairs, moving walks and manlifts in accordance with the building code, a processing fee of \$15.00 and the	

	following inspection fees shall apply unless otherwise provided:	
7-136(1)	Six-month inspection	41.25
7-136(2)	Annual hydraulic inspection	85.25
7-136(3)	Annual traction inspection	85.25
7-136(4)	Three-year inspection	141.75
7-136(5)	Five-year inspection	141.75
7-136(6)	Acceptance test for new construction	175.00
7-136(7)	Reinspection (no additional processing fee)	150.00
7-137	Fee schedule for building moving permits:	
7-137(a)(1)	Fee for a permit to move a building from without the city to a site within the city	500.00
7-137(a)(2)	Fee for a permit to move a building from within the city to a site out of the city	250.00
7-137(a)(3)	Fee for a permit to move a building from one location to another within the city	250.00
7-137(a)(4)	Fee for a permit to move a building through the city	250.00
7-137(a)(5)	Fee for a permit to move a building, moving on the same parcel within the city	50.00
7-138(a)	Fee schedule for demolition permits:	
	Single-family structures	50.00
	Any other structure	450.00
7-138(b)	Fee for inspection of sanitary sewer lateral seal	25.00
7-138(b)	Fee for sealing of sanitary sewer lateral by city	250.00
7-139(a)(1)	Fees for sign permits, for signs under 100 square feet	50.00
7-139(a)(2)	Fees for sign permits, for signs 100 square feet to 299 square feet	55.00
7-139(a)(3)	Fees for sign permits, for signs 300 square feet and over	60.00
7-139(b)	Permit fee for repainting an authorized sign in place when the sign will not be changed	10.00
7-139(c)	Permit fee for the repair of each billboard	25.00
7-139(d)	Application fees for a certificate of compliance, or a use permit	30.00
7-141(b)	Processing fee for refunds from building permits fees	25.00
7-143	Rental inspection fees:	
	Initial inspection	50.00
	Follow-up inspection (first)	50.00
	Second and subsequent follow-up inspection	50.00
	Periodic inspection	50.00

(Ord. No. 2009-42 , § 1, 5-12-2009; Ord. No. 2015-24, § 9(Exh. A), 5-12-2015, eff. 7-1-2015 ; Ord. No. 2017-34 , § 1(Exh. A), 5-9-2017; Ord. No. 2022-42 (Exh. A), § 3, 5-24-2022)

CHAPTER 9. CEMETERIES

Code Section	Description	Fee
9-3	City cemetery fees and charges:	
9-3(a)(1)	Opening and closing of adult graves: Monday through Friday, 9:00 a.m. to 4:00 p.m.	\$500.00
9-3(a)(2)	Opening and closing of adult graves: Saturday, 9:00 a.m. to 4:00 p.m.	600.00
9-3(a)(3)	Opening and closing of adult graves: Sunday and state and federal holidays, 9:00 a.m. to 4:00 p.m.	750.00
9-3(a)(4)	Opening and closing of child graves: Monday through Friday, 9:00 a.m. to 4:00 p.m., for a grave not exceeding a length of 48 inches, a width of 40 inches, and a depth of 48 inches	300.00
9-3(a)(5)	Opening and closing of child graves: Saturday, 9:00 a.m. to 4:00 p.m., for a grave not exceeding a length of 48 inches, a width of 40 inches, and a depth of 48 inches	300.00
9-3(a)(6)	Opening and closing of child graves: Sunday and state and federal holidays, 9:00 a.m. to 4:00 p.m., for a grave not exceeding a length of 48 inches, a width of 40 inches, and a depth of 48 inches	375.00
9-3(a)(7)	Opening and closing of cremation graves: Monday through Friday, 9:00 a.m. to 4:00 p.m.	300.00
9-3(a)(8)	Opening and closing of cremation graves: Saturday, 9:00 a.m. to 4:00 p.m.	300.00
9-3(a)(9)	Opening and closing of cremation graves: Sunday and state and federal holidays, 9:00 a.m. to 4:00 p.m.	375.00
9-3(a)(10)	Additional fee: For services where the funeral party is not present at the graveside by 4:00 p.m.	100.00
9-29.1	Burial permit fee for each adult burial	200.00
9-29.1	Burial permit fee for cremated remains	100.00

CHAPTER 9.1. CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT

Code Section	Description	Fee
9.1-11	Fee for review of plan of development for compliance with Chesapeake Bay Preservation Overlay District	\$125.00
9.1-12(c)(1)	Fee for application for planning commission exception to the performance standards for the Chesapeake Bay Preservation area Overlay District prior to commencement of project	\$275.00
	Fee for application for planning commission exception to the performance standards for the Chesapeake Bay Preservation Area Overlay District after commencement of project	500.00
	Fee for application for administrative exception to the performance standards for the Chesapeake Bay Preservation Area Overlay District prior to commencement of project	25.00

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	Fee for application for administrative exception to the performance standards for the Chesapeake Bay Preservation area Overlay District after commencement of project	150.00
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(Ord. No. 2008-34, § 1, 5-13-2008, eff. 7-1-2008; Ord. No. 2011-19, § 1, 5-4-2011, eff. 7-1-2011; Ord. No. 2020-34, § 7(Exh. A), 5-12-2020)

CHAPTER 11. EROSION AND SEDIMENT CONTROL, EXCAVATION

Code Section	Description	Fee
11-5(c)	Administrative review fee to accompany an erosion and sedimentation control plan at the time of submission	\$75.00
11-5(e)(1)	Development of an individual single-family lot involving over 2,500 square feet of land disturbance	600.00
11-5(e)(2)	Demolition of a single-family structure involving over 2,500 square feet of land disturbance	480.00
11-5(e)(3)	Multifamily residential development	1,440.00
11-5(e)(4)	Demolition of multifamily structures	540.00
11-5(e)(5)	Commercial development and subdivisions involving less than one acre of land disturbance	1,200.00
11-5(e)(6)	Commercial development and subdivisions involving one to five acres of land disturbance	2,400.00
11-5(e)(7)	Commercial development and subdivisions involving more than five acres of land disturbance	3,120.00
11-5(e)(8)	Demolition of commercial structures	1,200.00

(Ord. No. 2009-36, § 4, 5-12-2009, eff. 7-1-2009; Ord. No. 2020-34, § 10(Exh. A), 5-12-2020)

CHAPTER 12. FINANCE

Code Section	Description	Fee
12-21(b)	Fee for the construction, reconstruction, renovation, or adaptive reuse of a structure or structures to replace the circuit and district courthouses	\$3.00
12-121(a)	Fee for the construction, renovation or maintenance of the courthouses, jail or court-related facilities	2.00
12-122	Local criminal justice training academy fee imposed on certain individuals each time a fee is charged pursuant to Virginia Code §§ 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8 or 17.1-275.9, as each may be amended	1.00

(Ord. No. 2012-65, § 2, 11-13-2012)

CHAPTER 13. FIRE PROTECTION AND PREVENTION

Code Section	Description	Fee
13-35	Commercial inspections	\$55.00
	Response to third false alarm	50.00
	Plans review	25.00
13-74	Ambulance services fees:	
13-74(1)	Nonemergency incident response and ambulance transport with basic life support services	290.38
13-74(2)	Emergency incident response and ambulance transport with basic life support services	464.61
13-74(3)	Nonemergency incident response and ambulance transport with advanced life support Level 1 services	348.46
13-74(4)	Emergency incident response and ambulance transport with advanced life support Level 1 services	551.73
13-74(5)	Emergency incident response and ambulance transport with advanced life support Level 2 services	798.56
13-74(6)	Emergency incident response and ambulance transport with specialty care transport services	943.75
13-74(7)	The fee for ground transport mileage shall be \$9.45 per loaded mile in addition to the service charges set out in subsections (1) through (6) of this section.	
13-74(8)	Emergency incident response and patient assessment with a medical assessment and/or treatment performed but no transport to a health care facility	
	Basic charge	125.00
	plus, if applicable, ambulance billing—ALS supplies	100.00
	plus, if applicable, ambulance billing—BLS supplies	60.00
	plus, if applicable, ambulance billing—Oxygen	50.00
13-74(9)	Emergency incident response and patient assessment with a medical assessment and treatment performed where the patient is determined to be deceased at the scene by a medical provider.	358.97
13-74(10)	Patient care reports	10.00
13-86	Charge for copy of fire report, each	10.00

(Ord. No. 2009-42 , § 1, 5-12-2009; Ord. No. 2009-43 , § 2, 5-12-2009; Ord. No. 2013-25, § 1, 5-14-2013, eff. 7-1-2013; Ord. No. 2015-23, § 6, 5-12-2015, eff. 7-1-2015 ; Ord. No. 2017-37 , § 1(Exh. A), 5-9-2017; Ord. No. 2018-31 , § 1(Exh. A), 5-8-2018)

CHAPTER 16. GARBAGE AND REFUSE

Code Section	Description	Fee
16-31	Fee to cover administrative cost of enforcement of violations of regulations governing garbage and refuse collections	\$150.00
	Fee per load or portion thereof for the use of the city's waste management vehicles and equipment	250.00
	Rates for dwelling units, per dwelling unit, per month	38.09

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16-34	Four or more tires placed out for collection within any 12-month period, per additional tire	5.00
16-64	Rates for dwelling units, per dwelling unit, per month	29.16
16-65	Rates for standard automated 65-gallon or 105-gallon refuse containers, one collection per week, zero to two standard containers per collection, minimum charge per month	19.00
16-66(b)	The monthly rate for regularly-scheduled service in the downtown commercial district shall be \$40.72 per container multiplied by the number of pick-ups per week.	
16-66(c)	For each additional pick-up	10.00
16-67	Fee for disposal of small dead animals, per animal	30.00

(Ord. No. 2006-33, § 1, 4-25-2006; Ord. No. 2006-85, § 3, 9-26-2006; Ord. No. 2007-05, § 2, 1-9-2007; Ord. No. 2007-51, § 1, 4-24-2007; Ord. No. 2008-32, § 2, 5-13-2008, eff. 7-1-2008; Ord. No. 2009-56, § 2, 6-9-2009, eff. 7-1-2009; Ord. No. 2010-57, § 1, 6-22-2010; Ord. No. 2011-06, § 1, 1-25-2011; Ord. No. 2011-27, § 1, 5-4-2011, eff. 7-1-2011; Ord. No. 2012-19, § 1, 5-15-2012; Ord. No. 2017-31, § 1(Exh. A), 5-9-2017; Ord. No. 2019-29, § 1(Exh. A), 5-4-2019)

CHAPTER 17. HOUSING AND COMMUNITY DEVELOPMENT

Code Section	Description	Fee
17-1(c)	Fee for administrative expenses associated with abatement of dangerous building nuisance	\$160.00
17-134(a)	Fee for administrative expenses associated with securing a vacant building	85.00
17-136	Fees for registration and inspection of vacant buildings:	
17-136(1)	Single-family or two-family dwellings	15.00
17-136(2)	Multiple-family apartment dwellings	15.00
	Plus for each additional apartment above five	5.00
17-136(3)	All other classes of buildings whether institutional, commercial, industrial, for the first gross 1,000 square feet	15.00
	Plus for each additional gross 1,000 square feet or fraction thereof	5.00
17-136(4)	All classes of buildings whether residential, institutional, commercial or industrial which had been vacant for a period of 12 months or more, annual registration fee	25.00

CHAPTER 18. JUNK, SECONDHAND GOODS AND PAWNBROKERS

Code Section	Description	Fee
18-158	Permit fee for residential sales	\$5.00

CHAPTER 19. LIBRARIES AND MUSEUMS

Code Section	Description	Fee
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19-111	Law library assessment:	
	Law library assessment in civil actions filed with circuit court	4.00
	Law library assessment in civil actions filed with district courts	4.00
19-150	Museum admission fees:	
19-150(1)	Museum daily admission fees for Children's Museum of Virginia:	
19-150(1)a.	Regular admission	
	Children less than two years of age	None
	Children 2 to 17 years of age	10.00
	Adults	11.00
	Military with ID, seniors (62 years of age and older), AAA members	10.00
19-150(1)b.	Group: Portsmouth Public Schools students	None
19-150(1)c.	One supervising adult per Portsmouth Public School group of eight students, including Planetarium	None
19-150(1)d.	Group: Per person, self-guided tour	7.00
19-150(1)e.	Additional fees:	
	With either Focus Program or Planetarium Program	1.00
	With both Focus Program and Planetarium Program	2.00
19-150(2)	Other museums, per person:	
19-150(2)a.	Courthouse Galleries	3.00
19-150(2)b.	Naval Shipyard Museum/Lightship Museum	
	Children less than two years of age	None
	Children 2 to 17 years of age	2.00
	Adults	4.00
	Military with ID, seniors (62 years of age and older), AAA members	3.00
19-150(3)	Keypass Discount Program. Admittance to all city museums, except Planetarium, during normal working hours for 90 days from the date of issuance	
	Children less than two years of age	None
	Children 2 to 17 years of age	12.00
	Adults (18 years of age and older)	14.00
	Military with ID, seniors (62 years of age and older), AAA members	12.00

(Ord. No. 2009-70, § 2, 7-28-2009; Ord. No. 2011-23, § 2, 5-4-2011; Ord. No. 2012-24, § 1, 5-15-2012, eff. 7-1-2012; Ord. No. 2013-29, § 2, 5-14-2013, eff. 7-1-2013; Ord. No. 2022-34, §§ 2, 4, 5-10-2022)

CHAPTER 22. MOTOR VEHICLES AND TRAFFIC

Code Section	Description	Fee
22-3	Assessment in traffic cases for funding of courthouse security personnel	\$ 20.00
22-11	Registration fee for motorized push scooters	1.00
22-12(a)	Permit application fee for parades and other special events	50.00
22-14	Police escort service fee for funeral processions	10.00
22-74(a)	Annual license fees for vehicles designed and used for transportation of passengers:	

22-74(a)(1)	\$32.00 for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less and \$37.00 for each passenger car or motor home which weighs in excess of 4,000 pounds; provided, such passenger car or motor home is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a driver.	
22-74(a)(2)	\$0.30 per 100 pounds of weight or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than ten adult persons including the driver if such private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a driver. In no case shall the fee be less than \$32.00 if the vehicle weighs 4,000 pounds or less or \$37.00 if the vehicle weighs in excess of 4,000 pounds.	
22-74(a)(3)	\$0.30 per 100 pounds of weight or major fraction thereof for a school bus, public or private; provided that in no case shall the fee be less than \$32.00 if the vehicle weighs 4,000 pounds or less or \$37.00 if the vehicle weighs in excess of 4,000 pounds.	
22-74(a)(4)	\$32.00 for each trailer or semitrailer designed for use as living quarters for human beings.	
22-74(a)(5)	\$20.00 in addition to \$0.80 per 100 pounds of weight or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a driver for the transportation of passengers. An additional fee of \$5.00 shall be charged if the vehicle weighs in excess of 4,000 pounds. This subsection does not apply to vehicles used as common carriers.	
22-74(a)(6)	\$32.00 for a taxicab or other vehicle kept for rent or hire and operated with a driver for the transportation of passengers and which is operated or should be operated under permits issued by the state corporation commission as required by law and this Code. An additional fee of \$5.00 shall be charged if the vehicle weighs in excess of 4,000 pounds. This subsection does not apply to vehicles used as common carriers.	
22-74(a)(7)	\$24.00 for a motorcycle, with or without a sidecar.	
22-74(a)(8)	\$32.00 for a bus used exclusively for transportation to and from Sunday School or church, for the purpose of divine worship; provided that if the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$37.00.	
22-74(a)(9)	\$20.00 in addition to \$0.70 per 100 pounds of weight or major fraction thereof for other passenger-carrying vehicles.	
22-77	Annual license fee for vehicles not displaying current license	100.00
22-78	License fee for vehicles not designed or used for transportation of passengers:	
	Gross weight of 4,000 pounds or less	20.00
	Gross weight of 4,001 through 6,500 pounds	25.00
	Gross weight of 6,501 through 10,000 pounds	26.00

Gross Weight	Fee Per Gross Weight	
Groups (Pounds)	Private Carriers	For-Rent or For-Hire Carriers
10,001—25,000	\$ 41.00	\$ 62.50
25,001—40,000	100.00	200.00
40,001—55,000	150.00	300.00
55,001—70,000	200.00	400.00
Over 70,000	250.00	500.00

Code Section	Description	Fee
22-79	License fee for vehicles not designed or used for transportation of passengers	\$ 6.50
22-80(a)	License fee for combinations of tractor trucks and semitrailers, etc.	17.00
22-80(a)	License fee for combinations of tractor trucks and semitrailers, etc. exceeding a gross weight of 4,000 pounds	22.00
22-120	Special permits for traction engines and tractors, for each permit	2.00
22-266.1(b)(1)	Permits fees for excessive size and weight; each single trip permit	100.00
22-266.1(b)(2)	Permits fees for excessive size and weight; single-trip house move permit	100.00
22-266.1(b)(3)	Permits fees for excessive size and weight; annual blanket-term permit	
	First unit	300.00
	Each additional unit	300.00
22-266.1(b)(3)c.	Permits fees for excessive size and weight; for blanket-term mobile crane permits	300.00
22-266.1(b)(4)	Permits fees for excessive size and weight; for each movement of oversized vehicles with a width exceeding 14 feet or a weight exceeding 115,000 pounds	100.00
22-266.2	Fee for police escort for certain overweight and oversize vehicles	150.00
22-270(e)	Fee if the driver of an overloaded vehicle is convicted, forfeits bail, or purchases an increased license as a result of vehicle weighing	2.00
22-561(c)	Fee for removal of vehicle creating traffic hazard or interfering with the procedures of police, firemen, rescue workers, etc.	25.00
22-570(c)	Fee in lieu of towing when the owner of the trespassing vehicle is present and removes the trespassing vehicle from premises before it is actually towed	25.00
22-603	Metered street parking, except Crawford Street, per hour	1.00
	Metered street parking on Crawford Street, per hour	1.25
22-637	(Effective until December 31, 2020) Metered parking at city garages and lots, except Civic Center parking lot, per hour	1.00
22-637	(Effective January 1, 2021) Metered parking at city garages and lots, per hour	1.25
	(Effective until December 31, 2020) Metered parking at Civic Center parking lot, per hour	1.25

	(Effective January 1, 2021) Metered parking at city garages and lots, per hour, evenings and weekends	2.00
	(Effective January 1, 2021) Metered parking at city garages and lots, per hour, special events	3.00
22-760	Fee for furnishing copy of accident report to parties in interest, per copy	7.00
22-805	Storage charge for impounded vehicles, per day	20.00

(Ord. No. 2011-22, § 2, 5-4-2011, eff. 7-1-2011; Ord. No. 2014-45, § 1, 5-27-2014 ; Ord. No. 2015-26, § 1(Exh. A), 5-12-2015, eff. 7-1-2015 ; Ord. No. 2020-34 , § 23(Exh. A), 5-12-2020, eff. 1-1-2021; Ord. No. 2020-66 , § 1, 7-16-2020)

CHAPTER 23. NUISANCES

Code Section	Description	Fee
23-30	Administrative fee for cost of nuisance abatement of weeds and debris	\$150.00
23-49(a)	Administrative fee for cost of nuisance abatement of inoperable motor vehicle, trailer or semitrailer	100.00
23-49(c)	Fee for disposal of vehicle at auction, per vehicle	50.00
23-105	Administrative fee for mosquito nuisance abatement: \$150.00 or 25 percent of cost of abatement, whichever is less (not less than \$25.00) in addition to the actual cost of nuisance abatement	

CHAPTER 24. OFFENSES AND MISCELLANEOUS PROVISIONS

Code Section	Description	Fee
24-10(f)	Permit fee for "going-out-of-business" sales	\$65.00
24-11(a)	Fee for conviction in criminal case in district and circuit court	20.00
24-11(b)	Processing fee for admission to city jail following conviction of any violation	25.00

(Ord. No. 2020-66 , § 1, 7-16-2020)

CHAPTER 25. PARKS AND RECREATION

Code Section	Description	Fee
25-91	Fees for reservation of picnic shelters at City Park. Picnic shelters:	
25-91.3	Parking fee for the City Park boat ramp (non-residents only)	10.00 per day

	Residents	Nonresidents
<i>Single shelters (suitable for 40 people)</i>		
Weekdays	Dawn to Dusk - \$25.00	Dawn to Dusk - \$40.00
	Dawn to 3:00 p.m. - \$15.00	Dawn to 3:00 p.m. - \$25.00

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	3:30 p.m. to Dusk - \$15.00	3:30 p.m. to Dusk - \$25.00
Weekends/Holidays	Dawn to Dusk - \$50.00	Dawn to Dusk - \$75.00
	Dawn to 3:00 p.m. - \$30.00	Dawn to 3:00 p.m. - \$40.00
	3:30 p.m. to Dusk - \$30.00	3:30 p.m. to Dusk - \$40.00
<i>Double shelter (suitable for groups of 40—75)</i>		
Weekdays	Dawn to Dusk - \$80.00	Dawn to Dusk - \$120.00
	Dawn to 3:00 p.m. - \$45.00	Dawn to 3:00 p.m. - \$65.00
	3:30 p.m. to Dusk - \$45.00	3:30 p.m. to Dusk - \$65.00
Weekends/Holidays	Dawn to Dusk - \$120.00	Dawn to Dusk - \$150.00
	Dawn to 3:00 p.m. - \$65.00	Dawn to 3:00 p.m. - \$80.00
	3:30 p.m. to Dusk - \$65.00	3:30 p.m. to Dusk - \$80.00
<i>Large multi-purpose shelter: (suitable for groups of 75—200)</i>		
Weekdays	Dawn to Dusk - \$175.00	Dawn to Dusk - \$225.00
	Dawn to 3:00 p.m. - \$100.00	Dawn to 3:00 p.m. - \$125.00
	3:30 p.m. to Dusk - \$100.00	3:30 p.m. to Dusk - \$125.00
Weekends/Holidays	Dawn to Dusk - \$225.00	Dawn to Dusk - \$275.00
	Dawn to 3:00 p.m. - \$125.00	Dawn to 3:00 p.m. - \$150.00
	3:30 p.m. to Dusk - \$125.00	3:30 p.m. to Dusk - \$150.00

Code Section	Description	Fee
25-91.1	Pokey Smoky II, per ride	\$2.00
25-92	Fees for use of athletic, recreational and special activity facilities:	
25-92(a)(1)	Gym, per hour	100.00
25-92(a)(2)	Social hall, per hour	50.00
25-92(a)(3)	Meeting hall/room, per hour	30.00
25-92(a)(4)	Gym, athletic practice sessions only, per hour	25.00
25-92(a)(5)	Damage deposit required for gym, except for athletic practice sessions per rental	150.00
25-92(a)(6)	Damage deposit required for meeting room per rental	25.00
25-92(a)(7)	Damage deposit required for social hall per rental	75.00
25-92(c)	Fees for individual use of recreational facilities	
25-92(c)(1)	Adult Membership Card (annual)	\$20.00
25-92(c)(2)	Adult Replacement Card	10.00
25-92(c)(3)	Youth Membership Card (annual)	0.00
25-92(c)(4)	Youth Replacement Card	0.00
25-92(c)(5)	Senior Membership Card (annual)	0.00
25-92(c)(6)	Senior Replacement Card	0.00
25-92(c)(7)	Visitor Pass (one week)	5.00

25-92(c)(8)	Adult Day Pass	3.00
25-92(c)(9)	Youth Day Pass	0.00
25-92(d)	Fees for multi-session adult class programs shall be set by the City Manager within the indicated range per program, but the total program fee shall not exceed \$4.00 per individual session offered as part of the program.	20.00— 50.00
25-92(e)	Optional Annual/Quarterly Rates for Senior Fitness Class Programs (Portsmouth Residents only)	Annual: 65.00 Quarterly: 17.00
25-148	Municipal golf course fees:	

BIDE-A-WEE GOLF COURSE

	Apr.—Oct.	Nov.—Mar.
18 Holes—Weekend:		
Resident	\$33.00	\$22.00
Senior	33.00	22.00
Nonresident (per person)	42.00	27.00
Nonresident Senior (per person)	42.00	27.00
Junior	15.00	12.50
Twilight (except Juniors):		
After 11:30 a.m.	38.00	
After 12:00 noon		21.00
After 4:00 p.m.	27.00	
18 Holes—Weekday:		
Resident	23.00	17.00
Senior	21.00	15.00
Nonresident	28.00	22.00
Senior	23.00	17.00
Junior	12.50	10.00
Monday/Thursday Special for active and retired military, police and fire personnel, City of Portsmouth employees, and Seniors (Incl. Cart)	28.00	
Winter Special: Nov.—Mar.— Unlimited play (Greens fees only)	\$300.00 per period	
Twilight (except Juniors):		
After 1:00 p.m.		\$17.00
After 2:00 p.m. (per person)	28.00	
After 4:00 p.m.(per person)	25.00	
9 Holes—Weekday:		
Resident	15.00	12.00
Senior	12.50	10.00
Nonresident	20.00	17.00

Senior	15.00	12.00
Junior	10.00	8.00
Electric Cart Rentals:		
9 holes per person	\$6.00	
18 holes per person	12.00	
Pull Carts—	2.00 per day	
Range Balls—	\$4.00 per small bucket \$6.00 per large bucket	
Annual Pass (Green fee only, per person)	Portsmouth Resident Only	
Regular	1,500.00	
Senior	1,100.00	
Student	500.00	
Family	1,950.00	

THE LINKS AT CITY PARK

	Apr.—Oct.	Nov.—Mar.
18 Holes—Weekend:		
Resident	\$15.00	\$12.00
Nonresident	18.00	15.00
Junior	10.00	8.00
Senior	12.00	9.00
Twilight:		
After 1:00 p.m.	n/a	8.00
After 3:00 p.m.	10.00	n/a
9 Holes Green fees:		
Resident	10.00	8.00
Nonresident	12.00	10.00
Junior	7.00	6.00
Senior	8.00	7.00
Putting Course:		
Adult	3.00	3.00
Junior	2.00	2.00
Gas Cart Rentals:		
9 holes per person	6.00	6.00
18 holes per person	12.00	12.00
Pull Carts—	\$2.00 per day	
Range Balls—	\$4.00 per small bucket \$6.00 per large bucket \$30.00 per 10 small buckets	
Annual Pass (Green fee only, per person)	Portsmouth Resident Only	
Regular	700.00	
Senior	500.00	

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Student	200.00
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Code Section	Description	Fee
25-202(1)	Fee for the use of the National Guard Armory by nonprofit organization or private individual, per day or any fraction thereof	\$500.00
25-202(2)	Fee for the use of the National Guard Armory by a commercial organization, per day or any fraction thereof	750.00
25-202(3)	Additional hours, or fraction thereof, shall be charged by multiplying the number of additional hours and the hourly rate as established by subsection (1) or (2) of this section (\$500.00 or \$750.00 divided by eight) plus \$25.00	
25-204(a)	Deposit against damages to armory	\$300.00
25-247	Admission fees for municipal swimming pools:	
25-247(1)	Three years of age and younger	Free
25-247(2)	Four years of age and older	1.00
25-247(3)	Annual membership—Unlimited use	15.00

(Ord. No. 2007-45, § 2, 4-24-2007; Ord. No. 2008-15, § 1, 2-26-2008; Ord. No. 2009-62, § 2, 6-23-2009, eff. 7-1-2009; Ord. No. 2010-69, § 1, 8-10-2010; Ord. No. 2011-25, § 2, 5-4-2011, eff. 7-1-2011; Ord. No. 2011-26, §§ 1, 2, 5-4-2011, eff. 7-1-2011; Ord. No. 2013-04, § 2, 8-13-2013; Ord. No. 2015-80, § 2(Exh. A), 12-8-2015; Ord. No. 2016-16, § 2(Exh. A), 3-8-2016; Ord. No. 2020-34, § 12(Exh. A), 5-12-2020; Ord. No. 2022-34, §§ 2, 4, 5-10-2022)

CHAPTER 26. PEDDLERS AND SOLICITORS

Code Section	Description	Fee
26-55(f)	Annual registration fee for charitable organization, independent registration	\$10.00
26-62	Charge for copy of registration statements, reports, professional fundraising counsel contracts or professional solicitor contracts, not exceeding, per page	1.00

CHAPTER 27. POLICE

Code Section	Description	Fee
27-6(c)	Service charge for false alarm occurrence:	
	Second false alarm occurrence	\$ 35.00
	Third and fourth false alarm occurrence	50.00
	Fifth through ninth false alarm occurrence	75.00
	Subsequent false alarm occurrences within a 12-month period	100.00
27-7	Fees for police services and documents:	
	(1) Criminal record check	10.00
	(2) Fingerprinting	10.00
	(3) Identification photos	10.00
	(4) Reports (offense, accident, police)	10.00
	(5) Photographs	10.00

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	(6) 911 tape copy	10.00
	(7) Mugshot	20.00
	(8) Videotape copy	20.00
	(9) Copies (per page)	0.05
	(10) Research and copying (per hour)	25.00
	(11) Concealed handgun permit	35.00

(Ord. No. 2013-28, § 2, 5-14-2013, eff. 7-1-2013)

CHAPTER 28. PRECIOUS METALS AND GEMS

Code Section	Description	Fee
28-52	Permit application fee for dealers in precious metals and gems	\$200.00
28-56	Renewal of annual permit for dealers in precious metals and gems	200.00

CHAPTER 31.1. STORMWATER MANAGEMENT

Code Section	Description	Fee
31.2-26(a)	Stormwater utility fee:	
	Residential accounts—1 ERU times (per month)	\$13.50
	Nonresidential accounts—Actual number of ERUs times (per month)	13.50

(Ord. No. 2006-34, § 1, 4-25-2006; Ord. No. 2008-31, § 2, 5-13-2008, eff. 7-1-2008; Ord. No. 2009-41, § 2, 5-12-2009, eff. 7-1-2009; Ord. No. 2011-24, § 1, 5-4-2011, eff. 7-1-2011; Ord. No. 2012-18, § 1, 5-15-2012, eff. 7-1-2012; Ord. No. 2017-32, § 1(Exh. A), 5-9-2017; Ord. No. 2019-28, § 1(Exh. A), 5-14-2019; Ord. No. 2020-35, § 1(Exh. A), 5-12-2020, eff. 1-1-2021; Ord. No. 2021-28, § 1(Exh. A), 5-11-2021, eff. 7-1-2021; Ord. No. 2022-35, § 1(Exh. A), 5-10-2022)

CHAPTER 32. STREETS, SIDEWALKS AND LOCAL IMPROVEMENTS

Code Section	Description	Fee
32-5(a)	Application fee for vacation of street, alley, easement, right-of-way, or other public way; appointment of viewers	\$350.00
32-5(b)	Fee for payment of viewers, paid by the person making the application to alter or vacate the street or alley, each	25.00
32-6(b)	Reinspection fee for driveways	40.00
32-6(e)	Permit fees for driveways:	
	Per driveway apron for single-family property	50.00
	Per apron for duplexes	60.00
	Per driveway apron for all other property	300.00
32-8(b)(15)	Permit application fee for annual permit for outdoor dining areas in rights-of-way	100.00

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32-60(d)	Fee for performing or directing the performance of land disturbance work in the right-of-way without a valid right-of-way permit	150.00
32-61(a)	Inspection fee for nonresidential (utilities/other) land disturbance construction in right-of-way, not exceeding 100 square feet	50.00
32-61(a)	Additional inspection fee per square foot disturbed for nonresidential (utilities/other) land disturbance construction in right-of-way, exceeding 100 square feet, per square foot	2.00
32-61(a)	Where a site plan is required, the inspection fee for nonresidential (commercial) land disturbance construction in right-of-way	7.5% of ROW bond
32-61(a)	Unit fee for utility poles, per pole	40.00
32-61(b)	Inspection fee for residential land disturbance construction in right-of-way, per residential lot	50.00
32-61(c)	Fee for reinspection	100.00
32-61(f)	Fee for temporary street or lane closure:	
	Residential Street	\$50.00
	Arterial Street (1—15 day duration)	\$50.00
	Arterial Street (>15 day duration)	\$100.00
32-202(a)	Permit application fee for vendors in downtown district	50.00
32-204	Permit issuance fee for vendors in downtown district	50.00
32-285	Permit application fee for food truck permit	50.00

(Ord. No. 2008-34, § 1, 5-13-2008, eff. 7-1-2008; Ord. No. 2015-25, § 1(Exh. A), 5-12-2015, eff. 7-1-2015 ; Ord. No. 2017-34 , § 2(Exh. A), 5-9-2017; Ord. No. 2017-36 , § 2(Exh. A), 5-9-2017; Ord. No. 2020-34 , §§ 2, 3, 5(Exh. A), 5-12-2020)

CHAPTER 33.1. SUBDIVISIONS

Code Section	Description	Fee
33.1-20	Subdivision application and review fees:	
	Minor plat (subdivision or condominium)—\$100.00 plus \$11.00 per lot	
	Major, preliminary—\$100.00 plus \$11.00 per lot; for land zoned commercial or industrial \$100.00 plus \$27.00 per lot	
	Major, final—\$100.00 plus \$11.00 per lot; for land zoned commercial or industrial \$100.00 plus \$27.00 per lot	
	Subdivision variance, per application	220.00
	Plat vacation, per application	125.00
	Modification, resubdivisions, relocation of lot lines, per application	125.00
	Modification without new lots or new improvements, per application	125.00
33.1-55	Application to change name of existing street—\$350.00 application fee plus the direct costs for fabrication and installation of new street signs	

(Ord. No. 2008-34, § 1, 5-13-2008, eff. 7-1-2008; Ord. No. 2017-35 , § 2(Exh. A), 5-9-2017)

CHAPTER 34. SWIMMING POOLS

Code Section	Description	Fee
34-5	Swimming pool permit fee:	
	Seasonal operation (four months or less)	\$50.00
	Year round operation	75.00

CHAPTER 35. TAXATION

Code Section	Description	Fee
35-3(a)	Administrative charge for collection of delinquent taxes and charges, etc.	\$30.00
35-3(a)	Administrative charge for collection of nuisance abatement lien for administrative costs shall be \$150.00 or 25 percent of the costs, whichever is less; however, in no event shall the fee be less than \$25.00	
35-189	Application processing fee for exemption of property which has undergone substantial rehabilitation, renovation or replacement	50.00
35-219	Application processing fee for exemption of rehabilitated real estate in urban enterprise zone	50.00

CHAPTER 36. VEGETATION

Code Section	Description	Fee
36-56(b)	Fee for application for appeal from enforcement or interpretation of tree planting and replacement regulations	\$25.00

CHAPTER 37. VEHICLES FOR HIRE

Code Section	Description	Fee
37-44(b)	Inspection fee for inspection of taxicabs and other public vehicles, annual and semi-annual inspection	\$40.00
37-44(b)	Reinspection fee for taxicabs and other public vehicles with corrected defect	10.00
37-62	Processing fee for application for certificate of public convenience and necessity	20.00
37-73	Fee for issuance of certificate of public convenience and necessity	20.00
37-92	Processing fee for application for public vehicle driver's permit	20.00
37-95	Fee for issuance public vehicle driver's permit	20.00
37-99	Fee for renewal of public vehicle driver's permit	10.00
37-100	Fee for replacement of public vehicle driver's permit when lost, stolen or destroyed	10.00
37-250(a)	Processing fee for application to be included in tow book	20.00
37-250(b)	Processing fee for application to be included in tow book	22.00

(Ord. No. 2006-35, § 1, 4-25-2006)

CHAPTER 38. WATER, SEWERS AND SEWAGE DISPOSAL

Code Section	Description	Fee
38-9	Not to exceed fee for department of public utilities site plan/plan of development review	\$500.00
38-40(a)(1)	Charges for ownership and maintenance of water connections.	
	¾-inch service (connection)	\$500.00
	¾-inch service (connection), developer installed with meter installation by department	200.00

1-inch service (connection)	Actual cost of such installation plus 25% (minimum \$750.00)
1½-inch service (connection)	Actual cost of such installation + 25% (minimum \$900.00)
2-inch-service (connection)	Actual cost of such installation + 25% (minimum \$1,500.00)
4-inch service (connection)	Actual cost of such installation + 25% (minimum \$2,900.00)
6-inch service (connection)	Actual cost of such installation + 25% (minimum \$4,000.00)
8-inch service (connection)	Actual cost of such installation + 25% (minimum \$5,800.00)
10-inch service (connection)	Actual cost of such installation + 25% (minimum \$6,200.00)

Code Section	Description	Fee
38-40(f)	Construction inspection fee (water connection)	25.00
38-40(f)	Reinspection fee (water connection)	35.00
38-42	Sewer connection charges—Generally	
38-42(a)(1)a.	Sewer availability fee for residential and trailer parks, for each dwelling unit	\$500.00
38-42(a)(1)b.	Fee for residential and trailer parks, when the city performs the installation and connection, a connection fee equal to the greater of the actual cost of such connection plus 25 percent or \$1,250.00 shall be made for each point of connection.	
38-42(a)(2)a.	Commercial, office and institutional: The availability fee for commercial, office or institutional developments shall be computed by dividing the estimated rate of flow as calculated pursuant to criteria for such development as set forth by the state sewage regulations by 280 gallons per day. The result thereof shall be multiplied by \$500.00 to determine the total fee for the development.	
38-42(b)	Inspection fee for existing lateral on undeveloped or redeveloped property	150.00
38-42(g)	Sewer connection fee when a substandard sewer collection system connected to a treatment facility is taken out of service and a new collection system	60.00

	connected to a treatment facility replaces such substandard collection system, not less than	
38-42(h)	Construction inspection fee (sewer connection)	25.00
38-42(h)	Reinspection fee (sewer connection)	35.00
38-43(b)	Sewer line connection fee	250.00
38-48(b)	Charge for establishing a new water service account	12.00
38-48(b)	Fee for transferring water account and turning on water at the new residence	10.00
38-56(b)	Annual charge for use of public fire hydrants located in the city	120.00
38-56(b)	Annual charge for use of public fire hydrants located in another city or town	180.00
38-56(b)	Observation of fire hydrant flow test, per test	50.00
38-82	Water meter charges	

Meter Size (inches)	Charge per Month
$\frac{5}{8}$	\$ 10.00
$\frac{3}{4}$	10.00
1	16.63
1½	33.25
2	53.20
3	106.40
4	166.25
6	332.50
8	532.00
10	1,396.50

Code Section	Description	Fee
38-83	Meter rates for water supplied	
38-83(a)	For all water that passes through meters, customers within the corporate limits of the city shall pay \$4.95 per 100 cubic feet of water supplied during the period from July 1, 2022 through June 30, 2023; and annual increases of five percent over the rate in effect at the end of the prior fiscal year beginning July 1, 2023, and each July 1 thereafter, until amended.	
38-83(b)	For all water which passes through meters, customers of the City of Chesapeake who are served by Portsmouth and whose rates are not set by contract shall pay \$7.42 per 100 cubic feet of water supplied during the period from July 1, 2022 through June 30, 2023; and annual increases of five percent over the rate in effect at the end of the prior fiscal year beginning July 1, 2023, and each July 1 thereafter, until amended.	
38-83(c)	For all water which passes through meters to the City of Chesapeake pursuant to contract, the City of Chesapeake shall pay the rates established by contract.	
38-83(d)	For all water which passes through meters to the City of Suffolk pursuant to contract, the City of Suffolk shall pay \$4.60 per 100 cubic feet of water supplied during the period from July 1, 2022 through June 30, 2023; and annual increases of five percent over the rate in effect at the end of the prior fiscal year	

	beginning July 1, 2023, and each July 1 thereafter, until amended or as otherwise established by written contract.	
38-87	Deposit for water for building purposes	\$70.00
38-94(b)	Field service fee required prior to restoration of water service	25.00
38-94(b)	Inspection fee when water service turned on by unauthorized person	100.00
38-94(b)	Door tag when service discontinued	10.00
38-94(b)	Removal of water meter	50.00
38-94(c)	Additional charge for detection of water usage	50.00
38-117	Sewer service rates:	
38-117(a)	Charges for the disposal of sewage discharged into the city system will be based upon the water delivered to the premises as measured by meters used for this purpose at the rate of \$3.89 per 100 cubic feet during the period from July 1, 2022 through June 30, 2023; and annual increases of five percent over the rate in effect at the end of the prior fiscal year beginning July 1, 2023, and each July 1 thereafter, until amended. The minimum charge for such service shall be \$3.54 per month.	
38-117(b)	The minimum charge for a premises or groups of premises containing two or more dwelling units served through a single water meter or connection will be determined by multiplying the minimum charge set out in subsection (a) of this section by the number of dwelling units so served.	
38-117(c)	Charges for sewer service for dwelling units in premises with unmetered water connections shall be \$18.59 per month.	
38-364(a)(1)	Annual permit fee for boating on city-owned lakes, for privately-owned boats beginning April 1, issued for the period April 15 to April 15 of the following year at the following charges:	
	Nonresidents	50.00
	Portsmouth residents	25.00
	Sixty-two years of age or over	20.00
	City of Portsmouth employees	No charge
38-364(a)(3)	Daily permits for boating on city-owned lakes	6.50
38-365(15)	Charge for return of boats found on the city lakes or on city-owned property adjoining the lakes and not displaying the city public utilities current year boat decal.	75.00

(Ord. No. 2006-36, § 1, 4-35-2006; Ord. No. 2007-52, § 1, 4-24-2007; Ord. No. 2008-30, § 2, 5-13-2008, eff. 7-1-2008; Ord. No. 2009-40, § 2, 5-12-2009, eff. 7-1-2009; Ord. No. 2011-21, § 2, 5-4-2011, eff. 7-1-2011; Ord. No. 2012-20, § 1, 5-15-2012, eff. 7-1-2012; Ord. No. 2017-30, § 1(Exh. A), 5-9-2017; Ord. No. 2018-31, § 2(Exh. A), 5-8-2018; Ord. No. 2020-34, §§ 13, 15, 17, 19, 20, 22(Exh. A), 5-12-2020; Ord. No. 2020-36, § 1(Exh. A), 5-12-2020; Ord. No. 2021-29, § 1(Exh. A), 5-11-2021, eff. July 1, 2021; Ord. No. 2022-36, § 1, 5-10-2022)

CHAPTER 39. WETLANDS

Code Section	Description	Fee
39-25	Wetlands application fees:	
	Single-family dwellings	\$200.00

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	All other uses	200.00
	After commencement of land disturbance	200.00

(Ord. No. 2008-34, § 1, 5-13-2008, eff. 7-1-2008; Ord. No. 2017-34, § 3(Exh. A), 5-9-2017)

CHAPTER 40.2 ZONING

Code Section		Description	Fee
40.2-520(A)(4)		Planning and Zoning fees and charges	
	(1)	Board of Zoning Appeals application	\$200.00
	(2)	Commercial site plan (per hour for each hour in excess of four hours)	25.00
	(3)	Excavation Use Permit	200.00
	(4)	Extension application	55.00
	(5)	N/A	
	(6)	N/A	
	(7)	Rezoning application	880.00
	(8)	Rezoning (conditional) application	880.00
	(9)	Sign Zoning Permit (per sign)	30.00
	(10)	Site Plan (Plan of development) review:	
		One acre or less	480.00
		Less than five acres	1,000.00
		Five acres or greater	1,440.00
		Erosion control plan submitted separately	240.00
		Plan re-submittal (3rd resubmission prior to approval)	100.00
	(11)	Use Permit application	660.00
	(12)	Administrative review of Family Day Home (Note: fee is for administrative review only: if administrative review determines that a Use Permit is required and applicant elects to apply for a Use Permit, this fee will be applied against the Use Permit application fee and applicant will be required to pay the balance of the Use Permit application fee)	200.00
	(13)	BZA Variance or Special Exception application	150.00
	(14)	Zoning Permit application	15.00
	(15)	Zoning Verification Letter fee	25.00
	(16)	Application fee for all projects not involving removal of roofing or siding material, removal and replacement of windows or doors, or the addition or removal of all or part of any structure when the approval is not obtained prior to the commencement of construction.	250.00

	(17)	Application fee for all projects involving removal of roofing or siding material, removal and replacement of windows or doors, or the addition or removal of all or part of any structure when the approval is not obtained prior to the commencement of construction.	1,000.00
	(18)	Text amendment; non-city request	880.00
	(19)	Application for Temporary Use Permit	30.00
	(20)	Engineering final inspection for issuance of Certificate of Occupancy	100.00

(Ord. No. 2011-19, § 2, 5-4-2011, eff. 7-1-2011; Ord. No. 2015-30, § 1(Exh. A), 5-12-2015, eff. 7-1-2015 ; Ord. No. 2017-34 , § 4(Exh. A), 5-9-2017; Ord. No. 2020-34 , § 8(Exh. A), 5-12-2020; Ord. No. 2020-134 , § 1(Exh. A), 12-8-2020)